

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, February 6, 1905.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, February 6, 1905, at 7:45 o'clock, in regular session, President James H. Billingsley in the chair.

The Clerk called the roll:

Present: The Hon. James H. Billingsley, President of the Common Council, and 16 members, viz: Messrs. Cooper, Cottey, Crall, Eppert, Fishback, Gasper, Krause, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright.

Absent, 4, viz.: Messrs. Davis, Hofmann, Linus, Storm.

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

COMMUNICATIONS FROM THE MAYOR.

INDIANAPOLIS, IND., January 24, 1905.

To the President and Members of the Common Council:

Gentlemen: I herewith return to you with my signature and approval General Ordinance No. 87, 1904; Appropriation Ordinance No. 1, 1905; Appropriation Ordinance No. 30, 1904.

Respectfully,

JOHN W. HOLTZMAN,

Mayor.

Which was read.

REPORTS FROM CITY OFFICERS.

From the City Comptroller:

INDIANAPOLIS, IND., February 6, 1905.

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

Gentlemen: I submit herewith letter from the Board of Public Works requesting an ordinance fixing the salaries of employes in the

street cleaning department, with draft of ordinance desired. I respectfully recommend its passage.

Respectfully,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., February 6, 1905.

Mr. J. P. Dunn, City Comptroller:

Dear Sir: We send you herewith an ordinance fixing the salaries for the Superintendent and subordinates of the street cleaning and sprinkling department of this Board. Under the new method of doing this work a great deal of responsibility and work will devolve upon the Superintendent and upon his subordinates who replace all inspectors. It is desirable that the salaries be fixed as detailed in this ordinance for the reason that they are adequate compensation for the services performed, and the Superintendent has charge of the expenditure of about \$115,000 annually and the supervision of about two hundred men, and we deem the amount provided for him to be no less than he should receive for this service.

Respectfully,

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

Which was read.

INDIANAPOLIS, IND., February 6, 1905.

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

Gentlemen: I submit herewith letter of the Board of Public Safety requesting an appropriation of \$1,000 for constructing a padded cell at the police station. I recommend the appropriation and inclose ordinance for same.

Respectfully,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., February 6, 1905.

Mr. J. P. Dunn, City Comptroller:

Dear Sir: The Board of Public Safety respectfully requests you to recommend to the Common Council the appropriation of \$1,000 to defray the expense of building a padded cell, to be located at the police station.

Respectfully,

E. C. McLAUGHLIN,
Secretary.

Which was read.

INDIANAPOLIS, IND., February 6, 1905.

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

Gentlemen: I submit herewith letter of the Board of Public Works requesting an appropriation of \$731.77 for street assessment for improvement of Merrill street. I recommend the appropriation and inclose ordinance for that purpose.

Respectfully,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., February 1, 1905.

Mr. J. P. Dunn, City Comptroller:

Dear Sir: We respectfully request that you recommend to the City Council that it make an appropriation of \$731.77 out of funds not heretofore appropriated, for the use and benefit of this department in paying the assessment against the Merrill street Engine House for improving the roadway of Merrill street for a distance of 197½ feet. When the estimate was made last September this amount was not included as it was not then certain that this improvement could be made, hence the request for a special appropriation at this time.

Respectfully,

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

Which was read.

Mr. Storm entered the Council Chamber and took his seat.

REPORTS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, IND., February 6, 1905.

To the President and Members of the Common Council:

Gentlemen: We herewith transmit to you for consideration and action a contract between the City of Indianapolis by and through its Board of Public Works and the Lake Erie & Western Railroad Company for the laying and maintaining of a switch or side-track across Twenty-second street in the City of Indianapolis connecting the L. E. & W. tracks and the Union Railway tracks, executed by this Board October 14, 1904.

Respectfully,

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

Which was read.

REPORTS FROM STANDING COMMITTEES.

From the Finance Committee:

INDIANAPOLIS, IND., January 9, 1905.

To the President and Members of the Common Council:

Gentlemen: We, your Committee on Finance, to which was referred Appropriation Ordinance No. 33, 1904, beg leave to report that we recommend that it do pass.

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

Which was read.

Mr. Gasper moved that the report of the committee be adopted.
Carried.

From the Judiciary Committee:

INDIANAPOLIS, IND., February 6, 1905.

To the President and Members of the Common Council:

Gentlemen: Your Committee on Judiciary, to whom was referred General Ordinance No. 92, 1904, have had same under consideration and recommend that same do not pass.

Respectfully submitted,

ALBERT E. COTTEY,
J. ED. KRAUSE,
ANDREW H. WAHL,

Which was read.

Mr. Krause moved that the report of the committee be adopted.
Carried.

From the Judiciary Committee:

INDIANAPOLIS, IND., February 6, 1905.

To the President and Members of the Common Council:

Gentlemen: Your Committee on Judiciary, to whom was referred general Ordinance No. 31, 1904, have had same under consideration and are convinced that said ordinance could not be enforced for the reason that the city charter confers no power on the Common Council to legislate on this subject and your committee begs to submit opinion from the City Attorney bearing out your committee's report.

In view of the City Attorney's opinion, your committee without passing on the merits of said ordinance, would recommend that it do not pass.

Respectfully submitted,

ALBERT E. COTTEY,
J. ED. KRAUSE,
ANDREW H. WAHL,

INDIANAPOLIS, IND., January 18, 1905.

Mr. Albert E. Cottey, Chairman of Judiciary Committee, City Council:

Dear Sir: With reference to General Ordinance No. 31, 1904, I desire to say that in my opinion this ordinance, if ordained by the council, would be invalid for two reasons:

First: The charter contains no grant of power to the City Council in such matters, and

Second: It would be construed by the court as an attempted regulation of inter-state commerce and therefore beyond the power of the State to regulate.

Yours very truly,

HENRY WARRUM,
City Attorney.

Which was read.

Mr. Krause moved that the report of the committee be adopted.
Carried.

From the Committee on Public Safety and Comfort:

To the President and Members of the Common Council:

Your Committee on Public Safety and Comfort, to which was referred General Ordinance No. 86, 1904, being an ordinance amending Section 204 of General Ordinance No. 34, 1904, beg leave to report as follows:

We recommend that Section 1 be amended so that the following provision shall be added thereto:

"Provided, That at any office or other place maintained in any such building by the management thereof for the purpose of selling tickets, it shall be required of such management to keep on sale tickets for any part of such building whether the boxes, floor, balcony, or gallery," and your committee desires to recommend that when so amended the ordinance shall pass.

Respectfully submitted,

LEW W. COOPER,
JAMES B. MURRAY,
W. A. RHODES,
ALBERT E. UHL,
JAS. F. SULLIVAN.

Which was read.

Mr. Cooper moved that the action of the committee be concurred in. Carried.

INTRODUCTION OF APPROPRIATION ORDINANCES

By the City Comptroller:

Appropriation Ordinance No. 2—1905: An ordinance appropriating one thousand (\$1,000.00) dollars to the use of the Department of Public Safety for the purpose of building a padded cell at the police station.

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 otherwise heretofore appropriated, the sum of one thousand (\$1,000.00) dollars to the use of the Department of Public Safety, to be expended in constructing a padded cell at the police station.

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

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

By the City Comptroller:

Appropriation Ordinance No. 3—1905: An ordinance appropriating the sum of \$731.77 to the Department of Public Works for the payment of assessment for improvement of Merrill street.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That there be and is hereby appropriated the sum of seven hundred and thirty-one and 77-100 dollars (\$731.77) to and for the use of the Department of Public Works for the payment of

the assessment against the City of Indianapolis for the improvement of Merrill street opposite the Merrill street Engine House.

Sc. 2. This ordinance shall take effect and be in force 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. 5—1905: An ordinance providing for the salaries and compensations of the employees of the Board of Public Works for the cleaning and sprinkling of streets.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the salaries and compensations of certain officials and employees of the city, in the Department of Public Works, shall be as follows:

Superintendent of street cleaning and sprinkling	\$1,600 per annum
Assistant Superintendent street cleaning and sprinkling	1,080 per annum
Clerk of such Superintendent.....	780 per annum
Foreman of street cleaning and sprinkling at the rate of.....	900 per annum

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

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

By Board of Public Works:

General Ordinance No. 4—1905: An ordinance approving a certain contract granting the Lake Erie & Western Railroad Company the right to lay and maintain a side-track or switch from the main track of the Indianapolis Union Railway Company across Twenty-second street according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to-wit: on the 14th day of October, 1904, Lake Erie & Western Railroad 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: The undersigned hereby petition your honorable body for permission to construct and maintain an interchange track from a connection with the main track of the Indianapolis Union Railway Company on and along the right-of-way of the Lake Erie & Western Railroad Company, crossing Twenty-second street and continuing northerly on the said right-of-way to a connection with its main track

near the south line of Twenty-third street, substantially as shown on the plan attached hereto and made a part hereof.

Yours respectfully,

THE LAKE ERIE & WESTERN RAILROAD.

Now, therefore, This agreement, made and entered into this . . . day of, 1904, by and between Lake Erie & Western Railroad Company 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 the main track of the Indianapolis Union Railway Company on the right-of-way of the Lake Erie & Western Railroad Company across Twenty-second street in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point 1.5 feet west of the intersection of the east right-of-way line of the L. E. & W. Railroad with the south line of Twenty-second street, thence northerly crossing Twenty-second street to a point on the easterly side of said right-of-way 14½ feet east of the center line of the main of the said Lake Erie & Western Railroad, substantially as shown on the plan attached hereto and made a part hereof, 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 Twenty-second 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 or 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 Twenty-second 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.

THE LAKE ERIE & WESTERN R. R. CO.,
By G. C. Cleveland, Asst. Chief Engineer,
Party of the first part.

Witness:

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.

Under this head President Billingsley announced that the Codification of City Ordinances was now ready for distribution and advised the members to call upon the Board of Public Works and procure their copy.

ORDINANCES ON SECOND READING.

Mr. Rhodes called for General Ordinance No. 2, 1905, which was read a second time at the last meeting of the Common Council.

Several members offered amendments to this ordinance, and on motion of Mr. Gasper a recess of five minutes was taken to allow the Committee on Public Safety and Comfort to ascertain the best method of including the amendments in the original ordinance.

The Common Council reconvened at 8:15 o'clock.

Mr. Rhodes stated that all of the amendments, except that of Mr. Fishback's, should be introduced as new ordinances, which was agreed to.

Mr. Fishback offered the following:

I move to amend Section 5, General Ordinance No. 2, 1905, by substituting "each day including Sunday, for "each day except Sunday."

FRANK S. FISHBACK.

Mr. Rhodes moved the adoption of the amendment. Carried.

Mr. Rhodes moved that General Ordinance No. 2, 1905, be engrossed as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 2, 1905, was read a third time and passed by the following vote:

Ayes, 18, viz.: Messrs. Cooper, Cottey, Crall, Eppert, Fishback, Gasper, Krause, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Gasper called for Appropriation Ordinance No. 33, 1904, for second reading. It was read a second time.

Mr. Gasper moved that Appropriation Ordinance No. 33, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 33, 1904, was read a third time and passed by the following vote:

Ayes, 18, viz.: Messrs. Cooper, Cottey, Crall, Eppert, Fishback,

Gaspar, Krause, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.
Noes, none.

Mr. Fishback called for General Ordinance No. 86, 1904, for second reading. It was read a second time.

Mr. Rhodes moved to amend General Ordinance No. 86, 1904, as recommended by the Committee. Carried.

Mr. Fishback moved that General Ordinance No. 86, 1904, be ordered engrossed as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 86, 1904, was read a third time.

The Clerk called the roll:

Ayes, 9, viz.: Messrs. Cooper, Krause, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wright.

Noes, 9, viz.: Messrs. Cottey, Crall, Eppert, Fishback, Gaspar, Moriarity, Wahl, Wolsiffer and President James H. Bilungsley.

Before the Clerk announced the result Mr. Fishback changed his vote from "aye" to "no."

The Chair declared the ordinance not passed.

Mr. Fishback offered the following:

INDIANAPOLIS, IND., February 6, 1905.

To the President and Members of the Common Council:

At the next regular meeting of the Common Council, I will move to reconsider the vote on General Ordinance No. 86.

FRANK S. FISHBACK.

On motion of Mr. Crall the Common Council, at 8:30 o'clock, P. M., adjourned.

J. H. Billingsley
.....
President.

ATTEST:

W. M. Fogarty
.....

City Clerk.