

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.
MONDAY, August 21, 1905.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, August 21, 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 15 members, viz.: Messrs. Cooper, Cottey, Crall, Eppert, Fishback, Gasper, Hofmann, Moriarity, Murray, Rhodes, Shea, Sullivan, Wahl, Wolsiffer, Wright.

Absent, 5, viz.: Messrs. Davis, Krause, Linus, Storm, Uhl.

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

COMMUNICATIONS FROM THE MAYOR.

INDIANAPOLIS, IND., August 11, 1905.

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

Gentlemen: I herewith return with my signature and approval General Ordinance No. 61, 1905; General Ordinance No. 76, 1904; General Ordinance No. 58, 1905; General Ordinance No. 59, 1905; General Ordinance No. 60, 1905; Appropriation Ordinance No. 26, 1905; Appropriation Ordinance No. 27, 1905.

Respectfully,

JOHN W. HOLTZMAN,
Mayor.

Which was read.

REPORTS FROM CITY OFFICERS.

From the City Controller:

INDIANAPOLIS, IND., August 21, 1905.

To the President and Members of the Common Council:

Gentlemen: I enclose letter of the Board of Public Works asking an appropriation of \$1,200 for extension of mains of Brightwood Water Works in Dearborn Street. I recommend the appropriation, and enclose ordinance for that purpose.

Respectfully,

J. P. DUNN,
City Controller.

INDIANAPOLIS, IND., August 21, 1905.

Hon. J. P. Dunn, City Controller:

Dear Sir: We hereby request you to recommend that the Common Council appropriate, out of funds not appropriated for any other purpose, the sum of Twelve Hundred Dollars (\$1,200), for the purpose of extending the Brightwood water mains in Dearborn Street from Twenty-Second Street to Twenty-Third Street. This extension will be a profitable one and is necessary as the surface water is not free from pollution-

Respectfully,

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

Which was read.

REPORTS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, IND., August 11, 1905.

To the President and Members of the Common Council:

Gentlemen: We transmit to you herewith for your consideration and action a contract entered into by the Board, August 9, 1905, entitled: A contract granting the Atlas Engine Works the right to lay and maintain a sidetrack or switch from the Belt Railroad tracks across Twenty-second street according to blue print attached, in the City of Indianapolis, Indiana.

Respectfully,

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

Which was read.

REPORTS FROM STANDING COMMITTEES.

Mr. Crall of the Contracts and Franchises Committee presented the following:

Amendments to contract proposed to be entered into between the City of Indianapolis and Alfred Potts, Frank D. Stalnaker and Lorenz Schmidt, for the construction of a Fuel Gas Plant.

Amend Article ("f"), Section 1, by adding after the words "unpaid accrued dividends," the following words:

"Subject to the terms and conditions hereinafter set forth."

Amend Section 17 by adding thereto after the last paragraph of said Section, the following:

"Provided further, however, that after three years from the time of the acceptance of this franchise by the said Potts, Stalnaker and Schmidt, their associates and assigns, the said Company shall, upon petition and subject to the same terms and conditions hereinbefore set forth in this Section, upon the order of the Board of Public Works of said City of Indianapolis, lay, at the Company's expense, not less than ten thousand (10,000) feet of mains of such size as may be required to adequately serve the consumers along such extensions, and such extensions shall be made by said Company before the payment of any dividends provided for in Article ("f"), Section 1, hereof."

Amend Section 18 by inserting after the word "Section" in line three, the following words:

"And it shall be shown that the said Company shall have already laid the ten thousand (10,000) feet of mains hereinbefore provided to be laid each year, after the third year from the time of the acceptance hereof."

Amend Section 24 by adding after the words "without the consent of the Board of Public Works entered upon the minutes thereof," the words,

"And approval thereof by ordinance adopted by the Common Council."

And further amend the contract by adding thereto, Section 25, as follows:

"The said Potts, Stalnaker and Schmidt, their associates and assigns, shall furnish all meters to be used by consumers of the said Company, and the said Potts, Stalnaker and Schmidt, their associates and assigns, shall be entitled to charge therefor, a sum not to exceed five (\$5.00) dollars for the use of each meter so furnished. Provided that the amount herein authorized to be charged for such meters shall be held by said Company as a deposit, and shall be returned to such consumer upon the surrender to said Company of such meters in good condition, the same as when originally installed by said Company, natural wear excepted."

When so amended, your committee recommends that the ordinance do pass.

Your committee recognizes that in making the recommendation and amendments herein before specified, that it will be necessary to return this ordinance to the Board of Public Works of the City of Indianapolis for its affirmative action upon this ordinance, as amended, but firmly believes that the importance of the subject matter involved is so great to all the people of Indianapolis that an earnest effort should be made not only to fully safeguard the interests of the city in making the grant therein conferred, but to also so draft the franchise so as to secure the greatest possible advantage to the people of Indianapolis.

Your committee also feels that in view of the recent decision of Judge Baker of the United States Court of Appeals, declaring that the franchise clause of the Consumer's Gas Trust Charter under which ultimate possession was to be secured for the people of Indianapolis, is wholly inoperative, because not authorized in law, requires that extraordinary caution be observed in prescribing the terms and conditions of the franchise contemplated in the ordinance now before your honorable body.

We therefore recommend that should your honorable body, by an approval of this report, refer this ordinance back to the Board of Public Works after amendment in accordance herewith, that such Board carefully review and study all of the clauses of such ordinance, providing for the ultimate ownership by the city of the company sought to be created under the terms of this ordinance, and that the advice and council of the City Attorney be had as to the force and effect of such terms and conditions.

We beg to remain,

J. H. CRALL,
FRED W. EPPERT,
J. L. GASPER,
JAMES D. MORIARITY,
ANDREW H. WAHL.

Which was read.

Mr. Crall moved the adoption of the report.

Mr. Fishback called for the ayes and noes.

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

The Clerk called the roll on the adoption of the report of the Committee on Contracts and Franchises:

Ayes, 13, viz.: Messrs. Cooper, Cottey, Crall, Eppert, Gasper, Hofmann, Moriarity, Murray, Rhodes, Sullivan, Wahl, Wolsiffer and President Billingsley.

Noes, 4, viz.: Messrs. Fishback, Shea, Storm, Wright.

The Chair declared the report adopted.

From the Committee on Public Safety and Comfort:

INDIANAPOLIS, IND., August 21, 1905.

To the President and Members of the Common Council:

Gentlemen: Your committee on Public Safety and Comfort to whom was referred General Ordinance No. 57, 1905, have had same under consideration and would recommend that same do pass.

Respectfully submitted,

LEW W. COOPER.
W. A. RHODES.
JAMES B. MURRAY.
JAS. F. SULLIVAN.

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

INTRODUCTION OF APPROPRIATION ORDINANCES.

By the City Controller :

Appropriation Ordinance No. 28—1905: An ordinance appropriating \$1,200 for the extension of Brightwood Water Works Mains in Dearborn Street.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That there be and hereby is appropriated the sum of \$1,200 to the Department of Public Works for the extension of Brightwood Water Mains in Dearborn Street from Twenty-second to Twenty-third Street.

Sec. 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 Board of Public Works:

General Ordinance No. 70—1905: An ordinance approving a certain contract granting Atlas Engine Works the right to lay and maintain a side-track or switch across Columbia Avenue, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to-wit: on the 29th day of July, 1905, the Atlas Engine Works, filed its 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, Atlas Engine Works, a corporation under the laws of the State of Indiana, and a citizen and owner of real estate in the City of Indianapolis, respectfully petitions this Honorable Board for the passage of a resolution granting it the privilege of laying a switch connecting with its existing track from the Belt Railroad and extending across Columbia Avenue, and into and upon the property of your petitioner, same to be as indicated by the plat and drawing submitted herewith and attached hereto. This switch is desired for the purpose of facilitating transportation and business of your petitioner at its Works.

Respectfully submitted,
ATLAS ENGINE WORKS,

By Frederick E. Matson, Attorney.

Now, therefore, This agreement, made and entered into this 9th day of August, 1905, by and between Atlas Engine Works 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 track of its existing

switch across Columbia Avenue in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point on the west side of Columbia Avenue, thirty-one (31) feet south of the center line of the main track of the Belt Railroad, and extending diagonally southeast across Columbia Avenue to a point on the east side thereof, fifty-five (55) feet, six (6) inches south of the center line of the main track of the Belt Railroad, 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 Columbia avenue shall, at all times, be kept and 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 Columbia avenue 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 9th day of August, 1905.

ATLAS ENGINE WORKS,
By T. R. Kackley, 2d Vice-Pres.
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 the Committee on Railroads.

By Mr. Cooper:

General Ordinance No. 71—1905: An ordinance fixing the boundaries of certain voting precincts in the fourth, seventh, thirteenth and fifteenth wards of the City of Indianapolis, and fixing a time when the same shall take effect.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That all boundaries of voting precincts in the Fourth Ward shall be and remain as at present constituted excepting those of the eighth, thirteenth, fourteenth, seventeenth, eighteenth and nineteenth precincts, which shall hereafter be as follows:

Eighth Precinct: All that part of said City bounded as follows shall be and constitute the Eighth Precinct, Fourth Ward: Beginning in the center of the streets at the intersection of Clifton and Eugene streets, thence north with the center of Clifton street to the City limits, thence east with such City limits to Northwestern avenue, or the Michigan road, thence in a southeasterly direction in said avenue to Thirty-fourth street, thence west in Thirty-fourth street to Rader street, thence south to Thirtieth street, thence east to Annetta street, thence south to Eugene street, thence west to the place of beginning.

Thirteenth Precinct: All that part of said City bounded as follows shall be and constitute the Thirteenth Precinct, Fourth Ward: Beginning at the intersection of Thirtieth street with the western boundary of said City, thence east to the center of the Canal, thence southeast with the Canal to the center of Fall creek, thence down Fall creek to the center of Twenty-first street, thence west in the center of Twenty-first street as laid out and as extended to the western boundary of the City, thence north with said boundary to the place of beginning.

Sec. 2. All boundaries of voting precincts in the Seventh ward shall be and remain as at present constituted, excepting those of the Fourteenth and Fifteenth precincts, which shall hereafter be as follows:

Fourteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fourteenth precinct, Seventh ward: Beginning at the intersection of Noble and Michigan streets, thence south to Ohio street; thence east to Davidson street; thence north to New York street; thence east to Pine street; thence north to Michigan street; thence west to the place of beginning.

Fifteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fifteenth precinct, Seventh ward: Beginning at the corner of Washington and Liberty streets; thence north to Market street; thence east to Davidson street; thence north to New York street; thence east to Pine street; thence south to Washington street; thence west to the place of beginning.

Sec. 3. The Thirteenth ward shall be divided into sixteen precincts numbered as hereinafter described and designated by the following boundaries:

First Precinct: All that part of said City bounded as follows shall be and constitute the First precinct, Thirteenth ward: Beginning at the intersection of Ray street and White river; thence east to Senate avenue; thence south to Morris street; thence west to White river; thence north with White river to the place of beginning.

Second Precinct: All that part of said City bounded as follows shall be and constitute the Second precinct, Thirteenth ward: Beginning at the intersection of Ray street and Senate avenue; thence east to Illinois street; thence south to Morris street; thence west to Senate avenue; thence north to the place of beginning.

Third Precinct: All that part of said City bounded as follows shall be and constitute the Third precinct, Thirteenth ward: Beginning at the intersection of Ray and Illinois streets; thence east to Madison avenue; thence south with Madison avenue to Downey street; thence west to Meridian street; thence north to Morris street; thence west to Illinois street; thence north to the place of beginning.

Fourth Precinct: All that part of said City bounded as follows shall be and constitute the Fourth precinct, Thirteenth ward: Beginning at the intersection of Meridian and Downey streets; thence south to Minnesota street, thence east to Madison avenue, thence north to Downey street, thence west to the place of beginning.

Fifth Precinct: All that part of said City bounded as follows shall be and constitute the Fifth precinct, Thirteenth ward: Beginning at the intersection of Meridian and Wisconsin streets; thence south to the center of the Indianapolis Union Railway right-of-way; thence west to Senate avenue; thence north to Wisconsin street; thence east to the place of beginning.

Sixth Precinct: All that part of said City bounded as follows shall be and constitute the Sixth precinct, Thirteenth ward: Beginning at the intersection of the center of Morris street with the center of White river; thence down the river to the center of the bridge of the Indianapolis Union Railway Company; thence east with said railway to the

center of Senate avenue; thence north to the center of Wisconsin street; thence east to the center of Meridian street; thence north to the center of Morris street; thence west to the place of beginning.

Seventh Precinct: All that part of said City bounded as follows shall be and constitute the Seventh precinct, Thirteenth ward: Beginning at the center of the bridge of the Indianapolis Union Railway Company over White river; thence down White river to the southern boundary of the City at Southern avenue; thence east to Meridian street; thence north to the center of the right-of-way of said railway company; thence west to the place of beginning.

Eighth Precinct: All that part of said City bounded as follows shall be and constitute the Eighth Precinct, Thirteenth Ward: Beginning at the intersection of Madison avenue and Prospect street, thence south with Madison avenue to Dunlop street, thence east to East street, thence north in East street to Prospect street, thence west to the place of beginning.

Ninth Precinct: All that part of said City bounded as follows shall be and constitute the Ninth Precinct, Thirteenth Ward: Beginning at the intersection of East and Prospect streets, thence east to Shelby street, thence south to Sanders street, thence west to East street, thence north in East street to the place of beginning.

Tenth Precinct: All that part of said City bounded as follows shall be and constitute the Tenth Precinct, Thirteenth Ward: Beginning at the intersection of East and Sanders streets, thence east to Shelby street, thence south to Cottage avenue, thence west in Cottage avenue to East street, thence north to the place of beginning.

Eleventh Precinct: All that part of said City bounded as follows shall be and constitute the Eleventh Precinct, Thirteenth Ward: Beginning at the intersection of East street and Cottage avenue, thence east in Cottage avenue to Shelby street, thence south to Iowa street, thence west to Ringgold avenue, thence north to Minnesota street, thence west to East street, thence north to the place of beginning.

Twelfth Precinct: All that part of said City bounded as follows shall be and constitute the Twelfth Precinct, Thirteenth Ward: Beginning at the intersection of East and Dunlop streets, thence south to Minnesota street, thence west to Madison avenue, thence north to Dunlop street, thence east to the place of beginning.

Thirteenth Precinct: All that part of said City bounded as follows shall be and constitute the Thirteenth precinct, Thirteenth ward: Beginning at the intersection of Shelby street with the right-of-way of the Indianapolis Union Railway Company, thence west to East street, thence south in East street and on a line of East street extended through Garfield Park to Southern avenue, thence east to Shelby street, thence north to the place of beginning.

Fourteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fourteenth precinct, Thirteenth ward: Beginning at the intersection of Shelby street with the right of way of the Indianapolis Union Railway Company, thence west to East street, thence north to Minnesota street, thence east to Ringgold avenue, thence south to Iowa street, thence east to Shelby street, thence south to the place of beginning.

Fifteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fifteenth precinct, Thirteenth ward: Beginning at the intersection of East and Minnesota streets, thence west to Meridian street, thence south to the center of the right of way of the Indianapolis Union Railway Company, thence east to East street, thence north to the place of beginning.

Sixteenth Precinct: All that part of said City bounded as follows

shall be and constitute the Sixteenth precinct, Thirteenth ward: Beginning at the intersection of the Indianapolis Union Railway Company's right of way with East street, thence south in East street and its extension through Garfield Park to the corporation line of the City at Southern avenue, thence west to Meridian street, thence north to the center of said right of way, thence east to the place of beginning.

Sec. 4. All boundaries of voting precincts in the Fifteenth ward shall be and remain as at present constituted excepting those of the Third and Fifteenth precincts, which shall hereafter be as follows:

Third Precinct: All that part of said City bounded as follows shall hereafter be and constitute the Third precinct, Fifteenth ward: Beginning at the intersection of Washington and Warman streets; thence north to New York street; thence east with the center line of New York street as laid out, and as extended to Belmont avenue; thence south to Washington street, thence west to the place of beginning.

Fifteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fifteenth precinct, Fifteenth ward: Beginning at Warman avenue and New York street; thence east with the center line of New York street, as laid out and as extended to Belmont avenue; thence north to Michigan street; thence west to Concord street; thence south to Vermont street; thence east to Warman avenue; thence south to the place of beginning.

Sec. 5. The 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 Ordinances.

ORDINANCES ON SECOND READING.

Mr. Cooper called for General Ordinance No. 57, 1905, for second reading. It was read a second time.

Mr. Cooper moved that General Ordinance No. 57, 1905, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 57, 1905, was read a third time and passed by the following vote:

Ayes, 17, viz.: Messrs. Cooper, Cottey, Crall, Eppert, Fishback, Gasper, Hofmann, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Wahl, Wolsiffer, Wright and President Billingsley.

Noes, none.

On motion of Mr. Moriarity the Common Council, at 8:15 o'clock, P. M., adjourned.

J. H. Billingsley

 President.

ATTEN

W. M. Fogarty

 City Clerk.

