

P R O C E E D I N G S
OF THE
C O M M O N C O U N C I L .

R E G U L A R S E S S I O N .

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS,
MONDAY, AUGUST 17TH, 1868, 7½ O'CLOCK, P. M. }

The Common Council met in regular session.

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

Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson,
Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn
—12.

Absent—Councilmen Burgess, Coburn, Colley, Cottrell, Foster,
and Stanton—6.

The proceedings of the regular session held Aug. 10th, 1868, were
read and approved.

R E G U L A R O R D E R O F B U S I N E S S .

Mr. Brown presented the following petition :

INDIANAPOLIS, Aug. 17, 1868.

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

Your petitioners ask leave to make a crossing on South Meridian street op-
posite No. 131, at their own expense, for the convenience of persons going to
or from the Union Depot, and they will ever pray, &c.

S. YANDES,
JOHN S. SPANN,

For themselves and others interested.

Which was granted.

Mr. Brown presented the following remonstrance :

INDIANAPOLIS, Aug. 14, 1868.

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

The undersigned, owners of lots fronting on that portion of Delaware st., between South and McCarty streets, would respectfully represent to your honorable body that a contract is now being carried into effect on such portion of said street and sidewalks, in pursuance of an ordinance for the improvement of such street, which was not petitioned for, and which your petitioners believe to be, if completed, greatly injurious instead of beneficial to their property. They, therefore, respectfully remonstrate against the further execution of such contract, and ask your honorable body to repeal said ordinance, as but little work has yet been done, and your petitioners will ever pray, &c.

John Karney,
Francis Donnelly,
R. Simpson,

M. Simpson,
Wm. Reling,
And 36 others.

Which was laid on the table.

Mr. Brown presented the following petition :

INDIANAPOLIS, Aug. 17, 1868

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

The undersigned, owners of lots from No. 50 to No. 64, both inclusive, in Margaret McCarty's subdivision of out-lot No. 118, in the City of Indianapolis, county of Marion, and State of Indiana, according to the plat of said subdivision, recorded in Plat Book No. 1, page 253, of the records in the Recorder's Office of said county, ask that ten (10) feet in width off of the west side of Railroad or Chestnut street, in front of and adjoining said lots, and extending from Ray street on the north to Morris street on the south, be vacated; because such vacation would bring the front of said lots in line with the lots next north in out-lot 117, and the street would have an even border and more uniform width; and because the width of the street, after such vacation, will be sufficient for public purposes.

Lot No. 50 is owned by Joseph Esamann.
Lot No. 51 is owned by Martin Shollipp.
Lot No. 52 is owned by Martin Shollipp.
Lot No. 53 is owned by Charles Miller.
Lot No. 54 is owned by H. Beeker.
Lot No. 55 is owned by E. Terrell.
Lot No. 56 is owned by Sarah Fike.
Lot No. 57 is owned by G. R. Jennings.
Lot No. 58 is owned by James Croper.
Lot No. 59 is owned by ——— Henderson, agent.
Lot No. 60 is owned by T. Chill.
Lot No. 61 is owned by G. W. Lyons.
Lot No. 62 is owned by Patrick Moore.
Lot No. 63 is owned by E. A. Farmer.
Lot No. 64 is owned by W. Hartmann.

The east part of said street is occupied by the Madison and Jeffersonville Railroad, a single track, which would, after the vacation prayed for, be more than 34 6-12 feet from the front of said lots. No other persons than above named are affected by said proposed vacation. All of which is by the undersigned respectfully submitted this 8th day of August, 1868.

Martin Shollipp, G. W. Lyons,
Sarah Fike, E. Terrell,
G. R. Jennings, And 9 others.

Which was referred to the Committee on Streets and Alleys.

Mr. Geisel introduced special ordinance No. 70—1868, entitled :

AN ORDINANCE to provide for grading Vine street and sidewalks from Jackson street to the first alley east of Ash street.

Which was read the first time.

Mr. Geisel introduced special ordinance No. 80—1868, entitled :

AN ORDINANCE to provide for grading Lockerbie street and sidewalks between Noble and Liberty streets.

Which was read the first time.

Dr. Jameson presented the following petition :

INDIANAPOLIS, Aug. 17, 1868.

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

The undersigned respectfully represent to your honorable body that they are the owners of lot No. 11, in Square No. 1, in the City of Indianapolis, according to Beatty, Adm'r, of David Wallace's subdivision of said Square; that they have erected on said lot a two-story brick business house, and design occupying and using the same for a wholesale and retail Grocery establishment.

They would, therefore, respectfully request your honorable body to grant them the privilege of using so much of the sidewalks of Massachusetts Avenue and New Jersey street as may be necessary for the purpose of gaining access to an out-lot from the back part of said lot with such wagons and teams as they may desire to drive in and upon said lot, subject to such restrictions and regulations as your honorable body may deem reasonable.

Respectfully submitted,

BUTLER, SMITH & HARLAN.

Which was referred to the Board of Public Improvements.

Mr. Seidensticker offered the following motion :

That Joseph Staub and C. Gabal be permitted to grade and gravel the alley between lots 37 and 38 in T. R. Fletcher's subdivision of out-lot 54, and that the Civil Engineer be instructed to set the proper grade stakes.

Which was adopted.

Mr. Seidensticker presented the following petition :

INDIANAPOLIS, Aug. 17, 1868.

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

GENTLEMEN:—We, the undersigned, resident property holders of Indianapolis, and of lands adjoining the city, on and along John street, in said city, would respectfully represent to your honorable body that an agreement exists between the heirs of the late Gen. Robert Hanna, deceased, for the opening of a street at any point they might select that would accord with the subdivision already made, &c., a copy of which said agreement is herewith filed. Therefore we would respectfully petition your honorable body to open John Street fifty (50) feet wide from its present eastern terminus to the Corporation line, from which point there is a street sixty (60) feet wide continuing east to the U. S. Arsenal Ground.

John L. Hanna,
Wm. H. Hanna,
Louise M. Hanna,

James M. King,
Boeddeker & Niemann,
And 3 others.

Which was received.

Mr. Seidensticker offered the following motion :

That the foregoing petition be referred to the City Commissioners, and that the City Clerk be instructed to issue the proper notice to said Commissioners and all parties interested in the opening of said John street.

Which was adopted.

Mr. Seidensticker offered the following motion :

That the Civil Engineer be instructed to examine and report what, if anything, can be done to prevent the overflow of the gutters and the damaging of private property on North Illinois street.

Which was adopted.

Mr. Seidensticker presented the following petition :

INDIANAPOLIS, Aug. 17, 1868.

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

The Junction Railroad Company respectfully ask permission to erect three piers in the center of Pogue Run for the purpose of supporting the end walls of a brick depot building which the Company proposes to erect between New Jersey street and Virginia Avenue over Pogue Run. The pier to be so placed as to give the same water way as at Virginia Avenue bridge, and the foundation of them to be placed five feet below the bottom of the creek, and to be constructed with a cutwater so as to afford no obstruction to the flow of water.

J. W. SHELDON, Sup't.

Which was referred to the Board of Public Improvements and Civil Engineer.

Mr. Seidensticker offered the following motion :

Whereas the powers of the Judicial Officer of cities are about to be tested by a habeas corpus case, to ascertain whether said officer has power to adjudge imprisonment as a part of his sentences in criminal cases.

And whereas it is of the utmost importance that this important question of jurisdiction be finally settled: Therefore it is

Ordered, That the City Attorney be instructed to assist in defending the habeas corpus action now pending against Sheriff Parker, and to have said question finally settled by an appeal to the Supreme Court.

Which was adopted.

REPORTS FROM BOARDS.

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

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, Aug. 17, 1868. }

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

GENTLEMEN:—The Board of Public Improvements, to whom the bids were referred, would respectfully report :

1st. That Samuel Hanway is the lowest bidder for grading and graveling Ash street and sidewalks, between Massachusetts Avenue and the Corporation line, his bid being 64 cents per lineal foot.

2d. Cogill & Huffington are the lowest bidders for grading and graveling Ohio street and sidewalks, between Davidson street and the Corporation line east, their bid being 88 cents per foot—but at the meeting of the Board Mr. Cogill appeared and stated to the Board, as he had a week previous stated to the Clerk, that they (Cogill & Huffington) had made a mistake in their calculation, and desired to withdraw the bid. The Board did not think best to take the responsibility of granting their request, but would recommend that they be allowed so to do, and that the contract be awarded to the next lowest bidder, James Stewart, his bid being \$1.46½.

3d. Wm. Kown is the lowest bidder for grading and graveling Paoki alley and sidewalks through Square No. 46, between Illinois and Meridian streets, his bid being 18 cents per lineal foot.

4th. Samuel Hanway is the lowest bidder to grade and gravel Muskingum street and sidewalks, between New York and Vermont streets, his bid being 22 cents per lineal foot.

5th. Cogill & Huffington are the lowest bidders for grading and graveling Coburn street and sidewalks, between East and Wright streets, their bid being 53½ cents.

6th. Also, Cogill & Huffington are the lowest bidders for grading and graveling Dougherty street and sidewalks, between East and Wright streets, their bid being 51 cents per lineal foot.

7th. That D. Root & Co. are the lowest bidders for the erection of lamp-posts, lamps and fixtures on St. Clair street, between Meridian and Illinois streets, and on Chatham street, between St. Clair street and Massachusetts Avenue.

8th. That Anthony Richter is the lowest bidder for building the bridge over Pogue Run on Ohio street, his bid being for the wood work \$3.25, board measure, and for the stone work \$6.50 per yard.

And we respectfully recommend that the contracts be awarded said parties.

J. W. DAVIS,
SAMUEL GODDARD, } *Board.*

Which was concurred in, and the contracts awarded to the parties, with the exception of the second paragraph.

On motion, the City Clerk was directed to re-advertise for bids for the improvement of Ohio street, between Davidson street and the Corporation line.

REPORTS FROM COMMITTEES.

Mr. Seidensticker, from the Committee on Revision of Ordinances, made the following report :

INDIANAPOLIS, Aug. 17, 1868.

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

The Committee on Revision of Ordinances, to whom was referred a report of the Street Commissioner, showing that the cost of filling lot No. 223, in out-lot 97, of the City of Indianapolis, would be largely in excess of the 10 per cent. of its taxable value, recommend the passage of the following resolution of rescision :

Resolved, That so much of a resolution, heretofore passed, as required the Street Commissioner, in case of the failure of the owner to fill lot No. 223, in

out-lot 97 of the City of Indianapolis, and to report the cost thereof to the Council for assessment, be, and the same is hereby, rescinded.

A. SEIDENSTICKER, Chairman Committee.

Which was concurred in.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, MacArthur, Schmidt, Seidensticker and Woodburn—11.

Councilman Loomis voting in the negative.

So the resolution passed.

Mr. Seidensticker, from the Committee on Revision of Ordinances, made the following report :

INDIANAPOLIS, Aug. 17, 1868.

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

The Committee on Revision of Ordinances, to whom was referred a report of the Board of Health, with instructions to report an ordinance, respectfully report that recently a general ordinance against nuisances has been enacted by the Council, which, in the opinion of the Committee, fully covers this subject, and therefore no further action is needed.

Respectfully, A. SEIDENSTICKER, Chair'n Committee.

Which was concurred in.

Mr. Brown, from the Committee on Streets and Alleys, made the following report :

INDIANAPOLIS, Aug. 17, 1868.

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

The Committee on Streets and Alleys, to whom was referred the motion introduced in Council on the 10th instant, relative to a verandah in front of Butsch & Dickson's Academy of Music, on Ohio street, recommend that the motion be adopted.

AUSTIN H. BROWN, }
J. W. DAVIS, } Committee.

Which was concurred in, and the motion referred to adopted.

Dr. Jameson, from Special Committee, made the following report :

INDIANAPOLIS, Aug. 17, 1868.

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

Your Committee, to whom the ordinance for issuing bonds to the Junction Railroad Company, and all the papers relating thereto were referred, have given the questions involved full consideration, and now report that the entire subject depends upon the question—

1. Whether the ordinance appropriating bonds to the Junction Railroad was, at the time of its passage, legal and valid or illegal and void.

2. Whether the entire proceeding would have to be commenced "*de novo*," or whether Council could use the petitions formerly filed ?

Your Committee addressed certain questions to the City Attorney fully covering these points and received his opinion answering in a clear and lucid manner all of said questions. We refer to these, and beg to make them part of this report.

As this opinion of the legal adviser of Council decides the original appropriation ordinance to be illegal and void, and, also, that the old petition may be used as a basis for a new ordinance making the donation of bonds for which the good faith of the City of Indianapolis is pledged, if the same can be done legally, your committee recommend that the old petitions for appropriating \$50,000 bonds to the Junction Railroad Company be taken from the files and referred to a committee, of which the Assessor and John G. Waters, former Auditor and now Deputy City Clerk, shall be members, with instructions to report whether said petitions represent a majority of the resident freeholders of Indianapolis on this year's duplicate; and if not, what the entire number of such freeholders is, and a list of all whose names are not found on the petitions.

P. H. JAMESON,
AD. SEIDENSTICKER, } *Committee.*
AUSTIN H. BROWN, }

Which was received.

Also, the following opinion from the City Attorney on the subject.

INDIANAPOLIS, Aug. 17, 1868.

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

INDIANAPOLIS, August 8, 1868.

Hon. Ad. Seidensticker, Chairman Judiciary Committee :

DEAR SIR:—I have your communication of 7th instant enclosing interrogatories, to which I respectfully submit the following answers:

1st. The Charter of 1865 is, in respect to making appropriations and incurring liabilities, a literal transcript of that of 1857, and does increase beyond those conferred by former acts the powers of the Common Council. The enlargement of the powers consists in this; that the Common Council may create a debt in the execution of powers expressly granted without a petition. Under the previous law no debt could lawfully be created without a petition being first filed, even though it were in the execution of powers expressly granted. The later law conferred authority to create such a debt without petition. It will be observed that this right is only conferred for the purpose of carrying into effect powers expressly granted. Neither in the act of 1865, or in any previous act is there given any power to donate money to, or subscribe stock in any Railway Company. There being no such power expressly granted, it follows that Council could not lawfully, either with or without petition; make donations or subscriptions. In attempting to do so the powers conferred would be transcended and the act void. So far, then, as the change made in the statute in force at the time of the decision in the case of Cox vs. The City of Lafayette is concerned, it in no wise affects the principle decided, nor does it affect the questions involved in the donations made by the City to the Vincennes and other Railway Companies.

2d. Inasmuch as there was no law in force at the time authorizing the enactment of the ordinances making the donations, in passing them the Common Council exceeded their powers, and the ordinances are, therefore, utterly void. The act of 1867 confers this power, but does not legalize acts already performed, and does not, therefore, give vitality to the ordinances. The act of the Council is void because in performing it they transcended their powers, and no subsequent legislation has legalized or made it valid.

3d. It is my opinion that the present Council may use the petitions now on file if they deem that an unreasonable time since they were filed has not elapsed. It is one of the peculiarities of corporate bodies that there is a per-

petuity of succession, and that although officers and stockholders may be changed, it is yet in contemplation of law the same body. Its identity is unchanged. Petitions to improve streets, to erect gas lamps, addressed to a retiring Council, are acted upon by their successors. If it were not for this peculiarity of succession, every new Council on coming into power would be compelled to do over again all business left unfinished by their predecessors. The law, however, provides that an incoming Council may take up unfinished business at the stage it was left by their predecessors. The Council had no power to pass the ordinances prayed for, and the petitions remain just as though they had never been acted upon. These petitions, it is true, prayed the performance of an act which, at the time, the Council had no power to perform, but a subsequent act confers this power. I know of no reason why these petitions, regarded as the expressed will of the people, and if found by Council to conform to the law, may not be recognized and acted upon as valid.

Whether these petitions are sufficient, whether they express the will of a majority of the resident freeholders are questions of fact for the determination of the Common Council. If acting in good faith these petitions are decided to be sufficient, the decision will be final and conclusive, and the ordinances based thereon valid. No liability whatever can be incurred by any individual Councilman who, in good faith discharges the duties of his office, although he may be greatly in error. As to whether the Council should act on these petitions, is a question of fact upon which it would be improper for me to express an opinion. I desire to be understood as simply expressing an opinion upon the question of law; that if Council, in the exercise of the discretion vested in them by law, decide that the petitions on file properly and justly represent the will of a majority of the resident freeholders, they may legally act thereon, and their acts will be effective. They may either as in their judgment they deem just and proper, act on these petitions or refer the matter back to the people and require new petitions. They are invested with a broad discretion, and cannot be compelled to proceed in any other manner than that dictated by their own judgment.

In this connection it is proper to notice the case of *Thompson vs. The City of Peru*, decided at the last term of our Supreme Court. The complaint in that case was to enjoin the City of Peru from subscribing stock in a Railway Company, and it is admitted that a proper petition had been filed. The act conferring power to make such subscriptions is held to be constitutional, and the opinion states that subscriptions may be made without any petition whatever. This last point was not involved in the case, but the opinion may be regarded as enunciating the views of the Court. A distinction is made between subscriptions and donations. Subscriptions may be made without petition, but no donations can be made unless petitioned for by a majority of the resident freeholders. The aid proposed to be given the Vincennes and other Railway Companies must be regarded as in the nature of donations, and, therefore, a petition is required.

4th. I think it would be proper to compare the petition with the duplicate of the current year. Any evidence which will satisfy the Council that the petitions conform to the law will be sufficient. It will be proper to require such evidence as will convince men acting upon oath and in good faith of the sufficiency of the petitions. If this is done the duty of Council will be faithfully performed. An ordinance reciting in the preamble that proper petitions have been filed containing the requisite number of resident freeholders, and providing for the issue of bonds, will be a proper form.

5th. There are two methods which Council may legally adopt. 1st. If, in their judgment, the petitions now on file are sufficient, and are really the petition of a majority of the resident freeholders, they may act thereon and make the donation prayed for. 2d. If, in their judgment, these petitions are not sufficient, or do not express the will of a majority of the resident freeholders, they may refer the matter back to the people and require new petitions.

Which of the two is proper, right and just is a matter to be determined by

the Common Council. It is a question for their consideration and decision, and, if they act in good faith, that decision will be final, and no liability will be incurred by any member of Council. I consider that either course may be safely and legally pursued; but the Council alone can and should determine which is the better.

Respectfully,

B. K. ELLIOTT, *City Attorney.*

Which was concurred in, and, on motion, the committee was continued, to have the general supervision of the work recommended in the report to be done by the Assessor and Deputy Clerk.

Mr. Seidensticker, from Select Committee, made the following report:

INDIANAPOLIS, Aug. 17, 1868.

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

The undersigned, member of the committee to which was referred the report of the City Attorney on the legality of the appropriation to the Vincennes Railroad Company, respectfully submits the following report:

The questions as to what steps are necessary to make the appropriation of \$60,000 bonds by the City of Indianapolis to the Vincennes and Indianapolis Railroad Company legal and valid, has been fully settled by an opinion of the City Attorney given to the Special Committee on a similar appropriation to the Junction Railroad Company. To this opinion the undersigned respectfully refers, and as there can be no doubt that the faith of the City of Indianapolis is pledged to the Vincennes and Indianapolis Railroad Co. for the donation of \$60,000 bonds, and that the petition presented formerly is in full accord with public opinion to day, the undersigned respectfully recommends:

1st. That the petitions in favor of an appropriation of \$60,000 bonds to the Vincennes and Indianapolis Railroad Company be taken from the files, and that the same be referred to a special committee of —, of which committee the City Assessor and John G. Waters, former City Auditor, and at present Deputy City Clerk, are to be members.

2d. That said committee be instructed to report whether the signatures on said petitions represent a majority of the resident freeholders of Indianapolis.

3d. That said committee be instructed, if this is not the case, to report the whole number of resident freeholders, and a list of those names of freeholders whose signatures are not attached to the petitions.

Respectfully,

A. SEIDENSTICKER,
Member of Judiciary Committee.

Which was concurred in.

Mr. Seidensticker, from the Judiciary Committee, made the following report:

INDIANAPOLIS, Aug. 17, 1868.

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

The undersigned herewith submits the opinion of the City Attorney in reference to the ordinance for filling up and draining lots, which I fully concur in, with the recommendation that the amended form of the resolution be printed and used in place of the old form.

Respectfully,

A. SEIDENSTICKER,
Member of Judiciary Committee.

Which was concurred in.

Also the following :

INDIANAPOLIS, Aug. 10, 1868.

Hon. A. Seidensticker, Chairman Judiciary Committee :

I have examined the resolutions handed me and the order of reference.

In my opinion no additional ordinance is required; that now in force is sufficient, and is continued in force by the act of 1867, subject to the modification of that act, that the assessment cannot exceed ten per cent. of the value of the real estate.

I have appended the only amendment to the resolution which, as I think, is required.

Very respectfully,

B. K. ELLIOTT, *City Attorney.*

Which was concurred in.

The following is the form of resolution presented by the City Attorney :

Resolved, That the owners of the following described real estate, to-wit:

_____, be, and they are hereby required to fill and drain the same, as, in the opinion of this Council, there is a hole or excavation thereon in which water has or may become so stagnant and noxious as to be a nuisance, and injurious to the health and comfort of said city, and of the inhabitants thereof, and that the Street Commissioner be, and he is hereby required to notify the owner thereof, as provided by an ordinance passed April 23, 1866, entitled: "An ordinance providing for the drainage and filling up of ponds, excavations and holes, and prescribing penalties for the failure to fill up or drain the same," and that in case of the failure of the owners thereof to fill or drain the same, the Street Commissioner proceed to drain or fill said excavation, as provided in said ordinance, and provided that the cost thereof shall not exceed ten per cent. of the value of the aforesaid real estate as assessed upon the tax duplicate for city purposes.

REPORTS FROM CITY OFFICERS.

The Civil Engineer made the following report :

INDIANAPOLIS, Aug. 10, 1868

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

I hereby report the following work finished according to contract :

James Stewart, for grading and graveling Plum street and sidewalks, between Massachusetts Avenue and Cherry street.

Length on east side,	-	-	-	-	-	958 feet.
Length on west side,	-	-	-	-	-	1,025 "
Total length,	-	-	-	-	-	1,983
At sixty-four cents per lineal foot,	-	-	-	-	-	\$1,269 12
Deduct former estimate,	-	-	-	-	-	800 82
Present payment,	-	-	-	-	-	\$468 30

Also, James Mahoney, for grading and graveling the first alley west of Noble street, running north and south, between Vermont and Lockerbie streets.

Length on east side,	-	-	-	-	-	363 feet.
Length on west side,	-	-	-	-	-	363 "
Total length,	-	-	-	-	-	726
At fifty cents per lineal foot,	-	-	-	-	-	\$363 00

Also, Thomas Navin, for building fence around Military Park.

Total length of fence 3,037 feet 1½ inches, at sixty-nine and one-half cents per lineal foot,	-	-	-	-	-	-	\$2,106 62
Deduct former estimate,	-	-	-	-	-	-	1,000 00
Present payment,	-	-	-	-	-	-	\$1,106 62

Also, Feary & Dillon, for grading and paving the west sidewalk on Mississippi street, between the first alley north of Market street and Ohio street.

Length of pavement 155 feet, at 65 cents per lineal foot,	-	-	-	-	-	-	\$100 75
Length of curb 200 feet, at 22 cents per lineal foot,	-	-	-	-	-	-	44 00
Total estimate,	-	-	-	-	-	-	\$144 75

Respectfully, R. M. PATTERSON, *Civil Engineer.*

Which was concurred in.

Also, the following report :

INDIANAPOLIS, Aug. 17, 1868.

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

I have examined South Delaware street, and would recommend that the east gutter from the first alley south of Merrill street to the west end of the culvert under Madison Avenue, which is 1650 feet, be cleaned out to a regular grade and bowldered nine feet wide, which will carry off the water until some better outlet is made. The fall will be 2½ inches to 100 feet. The sidewalks are low in many places, and should be raised to prevent the water from running into the cellars.

Respectfully, R. M. PATTERSON, *Civil Engineer.*

Which was concurred in.

The Market Master made the following report :

INDIANAPOLIS, August 17, 1868.

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

At the last regular meeting of the Common Council I was directed to thoroughly repair the roof of the West Market House. A careful examination shows that nearly all of the shingles, and a great portion of the sheeting have rotted; also, that the roof has sagged so as to render the whole structure extremely dangerous, and liable to fall during the first heavy wind or severe fall of snow. It imperatively needs repairing at the earliest practicable moment. Competent mechanics concur in the above.

As this will cost much more than was intended by the passage of that motion, I ask for further instruction.

Respectfully submitted,
GID. B. THOMPSON, *Market Master.*

Which was referred to the Board of Public Improvements with instructions to report the estimated cost.

The City Clerk made the following report :

INDIANAPOLIS, August 17, 1868.

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

The City Clerk respectfully reports to Council :

1st. A first and final estimate allowed James Mahoney for grading and graveling the first alley west of Noble street, running north and south, between Vermont and Lockerbie streets.

2d. First and final estimate allowed John Feary and Thomas Dillon for paving and curbing the outside edge of the west sidewalk on Mississippi st. from the north side of Wabash street to Ohio street.

3d. Second and final estimate allowed James Stewart for grading and graveling Plum street and sidewalks, between Massachusetts Avenue and Cherry street.

4th. First and final estimate allowed John Scheier for grading and graveling Jackson street and sidewalks, between St. Clair street and Corporation line north.

5th. First and final estimate allowed Deloss and Jerome B. Root for erecting lamp-posts, lamps and fixtures on Vermont street, between Illinois and Tennessee streets.

6th. First and Final estimate allowed Hiram Seibert for grading and graveling Tennessee street and sidewalks, between McCarty and Ray streets.

7th. First and final estimate allowed Deloss and Jerome B. Root for erecting lamp-posts, lamps and fixtures on East street, between Washington and Ohio streets.

8th. First and final estimate allowed Hiram Seibert for grading and graveling Harrison street and sidewalks, between Dillon street and the west line of Coe's subdivision.

Respectfully submitted,

DAN. M. RANSELL, City Clerk.

Per JOHN G. WATERS, Deputy.

Which was received.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed Deloss and Jerome B. Root for erecting lamp-posts, lamps and fixtures on East street, between Washington and Ohio streets be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed John Scheier for grading and graveling Jackson street and sidewalks, between St. Clair st. and the Corporation line north, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, God-

dard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed Hiram Seibert for grading and graveling Harrison street and sidewalks, between Dillon st. and the west line of Coe's subdivision be, and the same is hereby adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed Deloss and Jerome B. Root for erecting lamp-posts, lamps and fixtures on Vermont st., between Illinois and Tennessee streets, be, and the same is hereby adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilmen voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed James Mahoney for grading and graveling the first alley west of Noble street, running north and south, between Vermont and Lockerbie streets, be, and the same is hereby adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed Hiram Seibert for grading and graveling Tennessee street and sidewalks, between McCarty and Ray streets, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed James Stewart for grading and graveling Plum street and sidewalks, between Massachusetts Avenue and Cherry street, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

Also, the following resolution :

Resolved, That the foregoing first and final estimate allowed Feary & Dillon for paving and curbing the outside edge of the sidewalk with White Oak plank the west sidewalk on Mississippi street from Wabash to Ohio streets, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

The City Commissioners made the following report :

INDIANAPOLIS, July 27, 1868.

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

The undersigned, Commissioners appointed to appraise and assess damages and benefits in cases of opening streets and alleys, to whom was referred the petition for the opening of Plum street between St. Clair street and the Corporation line north, through the middle part of out-lot 181 from its south western terminus west of Vine street, taking forty (40) feet off of out-lot No. 181.

That, pursuant to the notices issued and served, they met at the office of the City Clerk on the 27th day of July, 1868, and proceeded to view the ground proposed to be appropriated for the purpose of opening said street.

1st. They find the whole amount of damages sustained is three hundred (300) dollars, which is assessed as follows :

Stanley F. Tebbs, owner of a five (5) acre piece of ground, being a part of out-lot numbered one hundred and eighty-one (181), being two hundred and fifty (250) feet wide, and running across said out-lot in parallel lines from the east to the west lines thereof, as designated on the plat of Wm. Young as an addition to the City of Indianapolis, \$300.

That no part of the expense of said opening of such street shall be borne by the City of Indianapolis.

That the persons below named are benefited upon the real estate described in the sums set opposite their respective names :

Stanley F. Tebbs, owner of the five (5) acre piece of ground, being part of out-lot numbered one hundred and eighty-one (181), being two hundred and fifty (250) feet wide, and running across said lot in parallel lines from the east to the west lines thereof, as designated in the plat of Wm. Young as an addition to the City of Indianapolis, \$300.

All of which is respectfully submitted.

SAMUEL M SEIBERT,	} Com'rs
JAMES C. YOHN,	
WILLIAM BRADEN,	
JAMES N. RUSSELL,	

In reference to which Mr. Geisel offered the following resolution :

Resolved, That the report opening Plum street, by the City Commissioners, be concurred in, and that the real estate proposed to be appropriated for said street be appropriated, and that the damages as assessed by the Commissioners be awarded, and the benefits assessed in accordance to the report of the Commissioners.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

The City Commissioners made the following report :

INDIANAPOLIS, July 13, 1868.

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

The undersigned, Commissioners appointed to appraise and assess damages and benefits in cases of opening streets and alleys, to whom is referred the petition for

the opening of Dillon street, between Harrison and Bates streets, through out-lot ninety-one (91), and part of out-lot ninety (90), vacated to the width of $28\frac{1}{2}$ feet.

That in pursuance of notice given they met at the office of the City Clerk on Monday, the 18th day of July, 1868, at 9 o'clock, A. M., and proceeded to hear evidence in the matter, and, concluding such examination, proceeded to view the ground proposed to be appropriated for the purpose of opening said street

1st. They find the whole amount of damages sustained is four hundred and ninety-seven (497) dollars, which is assessed as follows:

M. N. Sullivan, fourteen feet off of lot No. 10 in out-lot 91.....	\$98 00
I. and C. R. R. Co, twenty-eight and one-half ($28\frac{1}{2}$) feet off of lot 37, in out-lot 91, and twenty-eight and one-half ($28\frac{1}{2}$) feet off of lot 37, in out-lot 90.....	399 00
Total amount of damages,-----	\$497 00

2d. That the benefits accruing to the owners of lots and parts of lots by opening of said street, is four hundred and ninety-seven (497.00) dollars, which is assessed against the owners of the following described real estate:

R. D. Torbit lot 1 in out-lot 91, Fletcher's addition.....	\$15 00
E. T. Fletcher et al. lot 6, out-lot 91.....	15 00
Hoyt Stone et al. lot 5, out-lot 91.....	12 00
E. T. Fletcher et al. lot 4, out-lot 91.....	12 00
“ “ “ “ 7, out-lot 91.....	15 00
“ “ “ “ 8, out-lot 91.....	15 00
“ “ “ “ 9, out-lot 91.....	14 00
Henry Brent lot 10, out-lot 91.....	13 00
Fred. Fells lot 11, out-lot 91.....	12 00
E. T. Fletcher et al. lot 12, out-lot 91.....	10 00
Hoyt Stone et al. lot 13, out-lot 91.....	9 00
“ “ “ “ 14, out-lot 91.....	6 00
“ “ “ “ 15, out-lot 91.....	4 00
M. N. Sullivan lots 10, 9, 8, 7, out-lot 91, Coe's subdivision.....	70 00
Henry Hassman lot 6, out-lot 91.....	15 00
Wilson & Greenlief lots 4 and 5, out-lot 91.....	25 00
J. R. Robinson lot 3, out-lot 91.....	10 00
I. H. Coe lots 1 and 2, out-lot 91.....	13 00
I. and C. R. R. Co. lot 36, out-lot 91, I. and C. R. R. subdivision.....	20 00
“ “ “ lot 35, out-lot 91.....	18 00
“ “ “ lot 34, out-lot 91.....	16 00
“ “ “ lot 33, out-lot 91.....	14 00
“ “ “ lot 32, out-lot 91.....	12 00
“ “ “ lot 31, out-lot 91.....	10 00
“ “ “ lot 30, out-lot 91.....	8 00
C. H. G. Balls lot 29, out-lot 91.....	6 00
I. and C. R. R. Co. lot 20, out-lot 91.....	20 00
“ “ “ lot 19, out-lot 91.....	18 00
“ “ “ lot 18, out-lot 91.....	16 00
“ “ “ lot 17, out-lot 91.....	14 00
“ “ “ lot 16, out-lot 91.....	12 00
“ “ “ lot 15, out-lot 91.....	10 00
A. Seidensticker lot 14, out-lot 91.....	8 00
I. and C. R. R. Co. lot 13, out-lot 91.....	6 00
Samuel Stevens lot 12, out-lot 91.....	4 00
Total amount of benefits,-----	\$497 00

All of which is respectfully submitted.

SAMUEL M. SEIBERT,
JAMES N. RUSSELL,
JAMES C. YOHN,
THOMAS SCHOOLEY.
WILLIAM BRADEN.

} Commissioners.

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

Resolved, That the report of the City Commissioners for the opening of Dillon street be concurred in, and that the real estate proposed to be appropriated for said street be appropriated, and that the damages as assessed be awarded, and the benefits assessed in accordance to the report.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the resolution passed.

ORDINANCES ON SECOND READING.

On motion by Mr. Geisel, special ordinance No. 66—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Dr. Jameson, special ordinance No. 73—1868, was taken up, read the second time and ordered to be engrossed.

On motion by Mr. MacArthur, special ordinance No. 75—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. Loomis, special ordinance No. 49—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. Geisel, special ordinance No. 70—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. MacArthur, special ordinance No. 76—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. Geisel, special ordinance No. 79—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. Geisel, special ordinance No. 80—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. MacArthur, special ordinance No. 77—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Dr. Jameson, special ordinance No. 72—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. Henschen, special ordinance No. 62—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Dr. Jameson, special ordinance No. 65—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Dr. Jameson, special ordinance No. 71—1868, was taken up, read the second time, and ordered to be engrossed.

On motion by Mr. Kappes, special appropriation ordinance No. 38—1868, was taken up, read the second time, and ordered to be engrossed.

ORDINANCES ON THIRD READING.

Mr. Henschen called up special ordinance No. 62—1868, entitled :

AN ORDINANCE to provide for repairing Virginia Avenue and sidewalks between South and Stevens streets with gravel.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Loomis called up special ordinance No. 49—1868, entitled :

AN ORDINANCE to provide for grading and graveling the alley running north and south between Virginia Avenue, Elm and Hosbrook streets, and running from Pine to Grove streets.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Brown called up special appropriation ordinance No. 39—1868, entitled:

AN ORDINANCE appropriating money for the payment of sundry claims against the city of Indianapolis.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Geisel called up special ordinance No. 66—1868, entitled:

AN ORDINANCE to provide for the erection of lamp-posts, lamps and fixtures complete to burn gas, except the service pipe, on Noble street, between Michigan and North streets.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

Dr. Jameson called up special ordinance No. 65—1868, entitled:

AN ORDINANCE to provide for grading and paving the sidewalk on the east side of Alabama street, between North and Walnut streets.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Kappes called up special appropriation ordinance No. 40—1868, entitled:

AN ORDINANCE appropriating moneys for the payment of sundry claims on account of the City Hospital for the month of July, 1868.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Brown called up special appropriation ordinance No. 38—1868, entitled :

AN ORDINANCE appropriating money to the Chief Fire Engineer to complete sinking a pipe down through the strata of blue clay.

Which was read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Brown, Davis, Geisel, Goddard, Henschen, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker and Woodburn—12.

No Councilman voting in the negative.

So the ordinance passed.

UNFINISHED BUSINESS.

Mr. Brown offered the following motion :

That so much of an ordinance entitled "An ordinance to provide for repairing Delaware street and sidewalks, between South and Wyoming streets," passed June 12, 1868, as authorizes the Street Commissioner to gravel the sidewalks of such street, be suspended for the present; provided the consent of the contractor be first obtained to that effect.

Which was adopted.

Dr. Jameson presented the following communication :

INDIANAPOLIS, Aug. 14, 1868.

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

Measurement of the stone flagging laid down by H. Bates at the intersection of Washington and Illinois streets—at the "Bates House" corner—in connection with that laid down on the two fronts of the Hotel, viz :

20 feet by 15 feet = 300 superficial feet, or $33\frac{1}{2}$ superficial yards, at the rate paid by H. Bates, of \$3.90 per yard, \$130.00.

D. A. BOHLEN, Architect.

City of Indianapolis,

H. Bates, Dr.

For $33\frac{1}{2}$ yards of stone flagging, laid down at the intersection of sidewalks on Washington and Illinois streets, corner of Bates House, as certified above by the superintending Architect at \$3.90 per superficial yard---- \$130 00
For 15 feet of brick pavement 10 feet wide, and stone side curb on Mar-

ket street side at intersection of sidewalks N. E. corner of Market and New Jersey streets, at \$1.50 per foot, as per contract.....	\$22 50
For 8 yards of brick pavement to fill out on sidewalk the full breadth (15 feet), at 75 cents per yard.....	6 00
For 15 feet stone curb across sidewalk on east side at 75 cents.....	11 25
Making a total of.....	\$169 75

I will state to the Council that the above items are precisely what I paid to my contractors for the work and materials, and it will be seen it has been done at reasonable rates, certainly costing less than if done separately from the large contract which included them.

I wish to say, by way of explanation, that I was not aware when I applied to the Council for an order to make the improvements, with which the work stated in the annexed account is connected, that I ought to have, at the same time, asked the Council in reference to this part of the work. I had the impression that the order or permission to make the improvements I asked, being granted, implied a consent on the part of the Council that the City would pay for that portion which, if it ought to be done, it was incumbent on the City to do. I shall by the time all my works are completed have expended not less than \$7,000, all of which is, to a considerable extent, certainly a public benefit. The work is done well, and at a fair rate. I hope, therefore, the Council will see the justice of the claim, and consent to make me the allowance for the amount so paid by me for the City's part of the work, notwithstanding my remissness in not having made the application in due form.

H. BATES.

Which was referred to the Committee on Claims.

His Honor, the Mayor, presented the following :

INDIANAPOLIS, Aug. 17, 1868.

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

GENTLEMEN:—The undersigned hereby presents to your honorable body one copy of the City Directory of Indianapolis for 1868-9, for the exclusive use of this Council, with the request that it be kept within the Council Chamber for said use.

Very respectfully,

LOGAN & CO., Publishers.

Which was received, and the thanks of the Council returned to the donor.

Mr. Davis offered the following motion :

That the City Attorney be instructed to take steps to resist the injunction suit in the case of the improvement of Railroad Avenue through Square 98.

Which was adopted.

On motion by Mr. Seidensticker, the Council adjourned.

DANIEL MACAULEY, *Mayor.*

ATTEST:

D. M. RANSELL, *City Clerk.*