

REGULAR MEETING.

COUNCIL CHAMBER,
CITY OF INDIANAPOLIS,
April 2, 1894. }

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, April 2, 1894, at 8 o'clock, in regular meeting.

Present, Hon Wm. H. Cooper, President of the Common Council, in the chair, and 18 members, viz: Messrs. Allen. Colter, Costello, Drew, Hennessy, Kaiser, Koehring, Krauss, Magel, Murphy, O'Brien, Puryear, Rauh, Schmid, Shaffer, Stein, Stott and Young.

Absent, 2—viz: Messrs. Merritt and Ryan.

The Clerk proceeded to read the Journal, whereupon Councilman Young moved that the further reading of the Journal be dispensed with.

Which motion prevailed.

COMMUNICATIONS, ETC., FROM MAYOR.

His Honor, the Mayor, presented the following communication:

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS,
March 27, 1894. }

To the President and Members of the Common Council:

GENTLEMEN—I have this day approved the following ordinances passed by your honorable body at its last session:

G. O. No. 14, of 1894. An ordinance requiring a flagman to be stationed at the crossing of the P., C., C. and St. L. R. R. tracks and Palmer street.

G. O. No. 21, of 1894. An ordinance authorizing the issue and sale of three hundred bonds of \$1,000 each to refund a like amount of the city bonds issued July 1, 1874, known as "Series C."

Respectfully submitted,
C. S. DENNY,
Mayor.

Which was read and ordered spread on the minutes.

His Honor, the Mayor, presented the following communication:

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS,
March 31, 1894. }

To the President and Members of the Common Council:

GENTLEMEN—After a number of conferences held between the Board of Public Works and Board of Health, it was decided to offer the Pest House property for sale, in order to enable the city to build a hospital for contagious diseases elsewhere. The present buildings are of no value for the uses originally intended, and the ground can not be utilized for a new structure.

An ordinance was passed by your predecessors, looking to a sale of this ground, but nothing further was ever done under it. An examination of said ordinance has convinced the city authorities that a sale ought not to be attempted under it. Indeed, it is doubtful whether a sale made under it would be legal, or not, as no evidence of its approval can be found.

At the request of the Boards named, I have prepared a new ordinance authorizing the appraisal and sale of said property, making all proper reservations of rights to protect the city, and herewith submit the same for introduction by one of your honorable body. I also hand to the Clerk an ordinance repealing the one heretofore passed, which should also be introduced and passed. The record of its introduction and passage should properly precede the one first named.

If your members favor the plan outlined by the Boards, I recommend that you suspend the rules and pass both ordinances at your next meeting, as there is really an emergency to provide a proper hospital building.

If a satisfactory appraisalment shall not be made, or a fair bid submitted, the Board of Public Works need not make the sale.

Respectfully submitted,

C. S. DENNY,
Mayor.

Which was read and ordered spread on the minutes.

REPORTS, ETC., FROM CITY OFFICERS.

Communication from City Comptroller:

DEPARTMENT OF FINANCE.
OFFICE OF CITY COMPTROLLER,
INDIANAPOLIS, IND., April 2, 1894. }

To the President and Members of the Common Council:

GENTLEMEN—I submit herewith a request from the Board of Public Works for a transfer of funds from the appropriation for sewers, to an account for the payment of erroneous assessments.

If in your judgment these claims should be paid by the city, I would recommend that the transfer be made.

Respectfully,

P. C. TRUSLER,
City Comptroller.

DEPARTMENT OF PUBLIC WORKS.
OFFICE OF THE BOARD,
INDIANAPOLIS, March 27, 1894. }

Mr. P. C. Trusler, City Comptroller, City:

DEAR SIR—Will you kindly make request of the Common Council for a transfer of \$1,000 from the sewer fund to a fund to be used by us for the payment of erroneous and double assessments against property owners for sewer and street improvements.

We enclose you an impression copy of an opinion given us by the City Attorney, which shows the propriety of the Board having at its command such a fund.

Very respectfully,

J. A. WILDMAN,
 ANDREW KRAMER,
 F. J. MEYER,
Board of Public Works.

DEPARTMENT OF LAW,
 CITY OF INDIANAPOLIS,
 March 23, 1894. }

Board of Public Works, City:

GENTLEMEN—Replying to your inquiries as per your letter of March 3d: Mr. W. M. Adams, it is stated, was assessed for street improvement \$13.14 more than he should have been. He has paid the assessment. To reimburse him you issued voucher No. 346, which the Comptroller refused to pay. It also appears that it would be more expensive to make a new assessment roll to correct the error than to pay it. The excessive assessment was the mistake of the city. Upon the facts stated, I am of the opinion the Comptroller rightly refused to issue a warrant upon the voucher:

First. Because there is no appropriation to your department out of which such a claim could properly be paid, as stated in this letter; and,

Second. For the further reason that in such case, after Mr. Adams has voluntarily paid the amount of his assessment, I do not think the city is legally liable to him for reimbursement.

I am of the opinion, however, as a moral proposition, the city should reimburse Mr. Adams for the loss sustained by reason of such error, and that others in similar instances, of which you speak in your letter, who have suffered by like errors, should also be reimbursed, if there is any legal way to do it, and if the city can properly act upon moral considerations.

Those who have been erroneously and excessively assessed, of course, have a remedy before they have voluntarily paid. In most instances, however, it is more expensive to the property owner to pursue this remedy than it is to suffer the consequences of the error in the assessment.

If the city has power to adjust these matters upon an equitable basis, relieving property owners of erroneous assessments where they occur, I think good conscience—if the city can be said to have any conscience—would require that it be done.

The statute contemplates that the entire cost of street improvements and sewer improvements shall be assessed against property owners. If there is no mistake in making out the assessment roll, there is nothing for the city to pay. In case of mistake it can be rectified and only rectified, within the terms and spirit of the statute, by a corrected assessment roll. There are instances when this is impracticable, as suggested by your letter, and would often be more expensive to the city than to rectify the error by payment of the excess in the assessment out of the general fund. The statute, however, has made no specific provision for the payment of any part of the cost of such improvements out of the general fund, and it has not taken into account the possibility of your department making any mistakes which it would not be practicable to remedy by corrected assessment roll.

The questions suggested by your letter, therefore, which cover not only Mr. Adams' claim, but others of similar character, are not free from difficulty, but I have come to the following conclusion, in which I may be right and in which I may be wrong: I believe it would be competent and proper for the Common Council to appropriate to your department such sum as may be deemed necessary to pay claims of the character stated. Such appropriation should be made and distributed upon the theory that it is to the interest of the city to pay such claims out of the general fund rather than to be put to the expense of making out a new assessment roll or to expense arising out of litigation on account of such claims.

Of course, where it is practicable to correct such errors and cheaper to do so by making the corrected assessment roll, that should be done by your Board rather

than to pay said claims out of the general fund. even when you have an appropriation, as it is the purpose and intent of the statute that the entire cost of such improvements shall be borne by the property owners benefited. However, within the limits stated, I think it would be proper and to the interest of the city that the Council should appropriate to your department a fund for the purpose stated.

In answer to your inquiry as to whether such claims should be referred to my department for adjustment, I should say they should not unless some legal question is involved. Where the claims are not in dispute, either as to amount or validity, I have no appropriation out of which I could pay them, as the appropriation to my department covers only judgments, compromises and costs.

Respectfully,

J. E. SCOTT,
City Attorney.

Which was read and referred to Committee on Finance.

REPORTS, ETC., FROM STANDING COMMITTEES.

Mr Rauh, on behalf of the Committee on Finance, to whom was referred the petitions of Henry Weghorst and Thomas A Morris, made the following report:

Mr. President:

Your Committee on Finance, to whom was referred the petitions of Henry Weghorst, also of Thomas A. Morris, pertaining to refunding of taxes, have had the same under consideration, and would respectfully recommend that the petitions be referred to the City Attorney.

Very respectfully yours,

HENRY RAUH.
CHARLES KRAUSS.
GEO. MERRITT, SR.
ED. G. STOTT.

Which was read and concurred in.

Mr. Rauh, on behalf of the Committee on Finance, to whom was referred:

App. O. No 3, 1894. An ordinance appropriating three hundred and twenty-one thousand five hundred and thirteen and $\frac{20}{100}$ dollars with which to pay at maturity certain bonds aggregating \$300,000, designated "Series C," dated July 1, 1874, due twenty years after date thereof; certain National Encampment bonds aggregating \$20,000, maturing April 20, 1894, and the interest on \$35,000 of National Encampment bonds, which interest amounts in the aggregate to \$1,513.20, and will become due April 20, 1894; and fixing the time when the same shall take effect.

Made the following report:

Mr. President:

Your Committee on Finance, to whom was referred App. O. No. 3, 1894, beg leave to report that we have considered the same, and would respectfully recommend that it be passed.

HENRY RAUH.
CHARLES KRAUSS.
GEO. MERRITT, SR.
ED. G. STOTT.

Which was read and concurred in.

Mr. Koehring, on behalf of the Special Committee on Public Property and Improvements, to whom was referred:

G. O. No. 11, 1894. An ordinance authorizing the sale and alienation of personal property belonging to the City of Indianapolis, and matters connected therewith, and fixing the time for the taking effect thereof.

Made the following report:

To the President and Members of the Common Council:

GENTLEMEN—Your committee on Public Property and Improvement, to whom was referred G. O. No. 11, 1894, recommend that it be amended as follows:

Section 1, by striking out the words "and return said inventory, appraisement and approval to the Department from which it came, when approved by said Mayor;" and insert the following: "and if such valuation shall amount to two hundred dollars or more, shall submit said inventory and appraisement to the Common Council, who shall, if it approve such sale, authorize the same by ordinance, when such inventory and appraisement shall be approved by the Mayor and by the Common Council when such appraisement shall amount to two hundred dollars or more."

When so amended, we recommend that it be passed.

CHAS. KOEHRING.
GEO. R. COLTER.
ED. G. STOTT.

Which was read and concurred in.

Mr. Drew, on behalf of the Committee on Sewers, Streets and Alleys, to whom was referred:

G. O. No. 25, 1894. An ordinance to change the name of Ludlow Lane to Ludlow Avenue.

Made the following report:

INDIANAPOLIS, IND., April 2, 1894.

Mr. President:

Your committee to whom was referred G. O. No. 25, 1894, beg leave to recommend that it be passed.

LUCIUS W. DREW.
GEO. W. SHAFFER.
WM. HENNESSY.

Committee.

Which was read and concurred in.

Mr. Drew, chairman of Committee on Sewers, Streets and Alleys, to whom was referred G. O. No. 23, 1894, and G. O. No. 24, 1894, (Alabama Street Improvement Ordinances), moved that said ordinances be called from the committee.

Mr. Shaffer moved to lay Mr. Drew's motion on the table.

Which motion prevailed.

APPROPRIATION ORDINANCES.

Under this order of business the following ordinance was introduced :

By Mr. Rauh :

App. O. No. 4, 1894. An ordinance authorizing the transfer of one thousand dollars to a fund therein established and created, which is other than that for which it was originally appropriated, and fixing the time when the same shall take effect.

WHEREAS, In General Ordinance No. 13, 1893, a certain sum was appropriated to the Department of Public Works of the City of Indianapolis, and designated as follows: "For Sewers;" and,

WHEREAS, It appears that at least one thousand dollars of such sum will not be needed for the purpose for which it was appropriated; and,

WHEREAS, It appears that the said Department of Public Works requires the sum of one thousand dollars for an "Erroneous Assessments" fund; therefore,

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the City Comptroller be and he hereby is authorized and directed, out of moneys heretofore appropriated for the use of the Department of Public Works for "Sewers," to transfer and charge the sum of one thousand dollars to the "Erroneous Assessments" fund of said Department, which said fund is hereby established and created, and said sum so to be transferred is hereby appropriated to said Department for the payment of claims arising out of erroneous assessments.

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

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

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

Under this order of business the following ordinances were introduced :

By Mr. Young :

G. O. No. 26, 1894. An ordinance to prevent vice and immorality and to suppress houses for immoral purposes, and matters connected therewith, and fixing the time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That it shall be unlawful for any person, or persons, firm, company, corporation, or association, to keep or maintain in said city or within four miles from its limits, any house, room, apartment, structure or premises, for the administration therein of opium or any extract or compound thereof, or any other poisonous or noxious drug or substance, by smoking, inhaling, injecting or in any other manner; or to permit or allow any person to self-administer opium or any extract or compound thereof, or any other poisonous or noxious drug or substance, either by smoking, inhaling, injecting or in any other manner, in any house, room, apartment, structure or premises within said city or within four miles from its limits, and every house, room, apartment or other premises, so kept or maintained for any of the purposes aforesaid, or in which the same shall be permitted or allowed, shall be deemed to be a house kept for immoral purposes, and every person, member of a firm, officer, agent or servant of a corporation, company or association, violating

any of the provisions of this section shall, upon conviction thereof, be fined in any sum not less than one hundred dollars nor more than five hundred dollars, to which may be added imprisonment not exceeding six months.

SEC. 2. It shall be unlawful for any person being the owner of, or agent for, or any officer or agent of any firm, company, corporation or association being the owner of or agent for, any house, room, apartment, structure or premises within said city of Indianapolis or within four miles of its limits, to knowingly let any house to be kept for immoral purposes as the same is defined in the preceding section, or knowingly permit any premises which he has let to be so kept; and every such person violating any of the provisions of this section shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars nor more than two hundred dollars, to which may be added imprisonment not exceeding three months.

SEC. 3. It shall be unlawful for any person to visit or frequent any house kept for immoral purposes as defined in Section 1 of this ordinance, or to be engaged in or about any such house, and every person violating any of the provisions of this section shall, on conviction thereof, be fined in any sum not less than twenty-five dollars nor more than two hundred dollars, to which may be added imprisonment not exceeding six months.

SEC. 4. None of the provisions of this ordinance shall be deemed to apply to any physician or surgeon lawfully practicing his profession, nor to any institution established and maintained for the sole treatment and cure of diseases or injuries.

SEC. 5. This ordinance shall take effect and be in force from and after its passage and publication once each week for two consecutive weeks in *The Sun*, a daily newspaper of general circulation printed and published in the City of Indianapolis, Marion county, Indiana.

Which was read the first time and referred to Committee on Public Morals.

By Mr. Koehring:

G. O. No. 27, 1894. An ordinance to repeal G. O. No. 22 of 1892, entitled "An ordinance authorizing and providing for the sale and conveyance of what is known as the Pest House property belonging to the City of Indianapolis," etc., passed by the Common Council June 6, 1892.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That G. O. No. 22 of 1892, entitled "An ordinance authorizing and providing for the sale and conveyance of what is known as the Pest House property belonging to the City of Indianapolis, and situate north of Fall Creek, the same being lots 10, 11 and 12, in Brooks' subdivision of a part of the southwest quarter of section 35, township 16, range 3 east, in Marion County, Indiana," which was passed by the Common Council June 6, 1892, be, and the same is hereby repealed.

SEC. 2. This ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

Which was read first time and referred to Special Committee on Public Property and Improvements.

By Mr. Koehring:

G. O. No. 28, 1894. An ordinance providing for the sale and conveyance of nine and sixty-four hundredths acres of land belonging to the City of Indianapolis, heretofore used for Pest House purposes.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the Commissioners of the Board of Public Works, be, and they are hereby authorized and directed to take all necessary steps to sell and convey the following described real estate, situated in Marion County, Indiana, belonging to the City of Indianapolis, to-wit: Lots numbered ten (10), eleven (11) and twelve

(12) in Brooks' subdivision of a part of the south-west quarter of section thirty-five (35), township sixteen (16), range three (3) east, containing in all nine and sixty-four-hundredths ($9\frac{64}{100}$) acres, and being the property heretofore known as the "Pest House Property."

SEC. 2. Said real estate shall not be sold until the same shall have been appraised by three disinterested free holders of the City of Indianapolis, appointed by the Judge of the Marion Circuit Court, of Marion County, Indiana, neither one of which appraisers shall be an officer or employe of said city. Said appraisers shall, after they have agreed upon a valuation of the whole of said real estate, return their said valuation and appraisal in writing, under oath, to the Mayor of said city, who shall submit the same to the Common Council. No sale or conveyance of said real estate shall be made by said city, or any officers acting therefor, unless the purchase price is the full appraised value thereof, or more, and until said sale shall have been approved by a two-thirds vote of the Common Council.

SEC. 3. Immediately after the passage of this ordinance the Chief Engineer of the Fire Force shall cause all the buildings now standing on said land to be completely destroyed by fire, under direction of the Board of Public Health and Charities.

SEC. 4. In case of sale of said land, the purchaser may pay the whole price bid in cash at the time the deed is delivered to him therefor, or, in his discretion, he may pay one-third of said purchase price in cash and execute his notes in equal parts for the other two-thirds, due in nine and eighteen months after date, respectively, at the same time executing a mortgage to said city on said real estate to secure the payment of said notes. Said notes, if given, shall draw interest at the rate of six per cent. per annum, respectively, from date until maturity, and eight per cent. per annum after maturity.

SEC. 5. Said sale shall be made by the Board of Public Works of said city, at the office of the Board, in the Court House in said city, at any time after five days' notice thereof, which notice shall be given by publication one or more times in *The Sun*, a daily newspaper published in said city, and by any other publications or notices that said Board, in their discretion, may decide to give. Said Board may reject any and all bids.

SEC. 6. In case of a sale of said property, the same shall be reported to the Common Council by the Board of Public Works, and if approved by said Council, as by law required, then, and in that event a good and sufficient deed shall be executed to the purchaser by the City of Indianapolis, signed by the Mayor and members of the Board of Public Works for and in behalf of said city.

SEC. 7. The purchase money shall be paid to the City Treasurer and credited to the proper city fund.

SEC. 8. This ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

Which was read first time and referred to Special Committee on Public Property and Improvements.

MISCELLANEOUS BUSINESS.

The following invitation from the Local Council of Women was read:

To the President of the Common Council, Indianapolis, Indiana:

DEAR SIR—Enclosed you will find a program of the second annual meeting of the Local Council of Women, which is to be held at the Propylæum, April 3d and 4th. The Committee of Arrangements, in the name of the Women of the Council, hereby extend to members of your honorable body a cordial and urgent invitation to be present at the session to be held on Wednesday evening, April 4th, from 8 to 10 o'clock. Believing, as we do, that a more perfect knowledge on the part of all

good citizens of the high aims of the Councils of Women—not of this city alone, but of all the important cities of the world—will result in great good to Indianapolis, we earnestly beg for a favorable consideration of our invitation.

JOSEPHINE R. NICHOLS,
President.

MARY ISABEL JENCKES,
Cor. Sec'y.

April 2, 1894.

Which was received and accepted, and ordered spread on the minutes.

Mr. Puryear submitted the following communication:

INDIANAPOLIS, IND., April 2, 1894.

To the Honorable Common Council, City of Indianapolis:

GENTLEMEN—Your petitioners, Benj. and Frank Irvin, proprietors of Irvin & Son's Great American R. R. Show, now fitting out in this city, in asking that your honorable body should, by resolution, authorize the City Comptroller to issue to the above mentioned show an exhibition license good for May 3, 4 and 5, 1894, desire to submit the following reasons for such action:

First. That the fitting out and preparing of this show has been the means of upwards of ten thousand dollars having been spent in the city, as the tents, wagons, etc., having been so far as possible purchased of home merchants.

Second. As this city is to be the home and winter quarters of said show, it will be the means of bringing from sixty to seventy people to this city to live.

Third. That it is customary in other cities for shows belonging to such cities to receive their licenses free of charge.

Therefore, in consideration of the foregoing reasons, we pray that your honorable body take the action above mentioned.

Very respectfully,
IRVIN & SON.

Which was read and referred to the Committee on Finance.

ORDINANCES ON SECOND READING.

On motion of Mr. Rauh, the following entitled ordinance was taken up, read the second time, ordered engrossed, and then read the third time:

App. O. No. 3, 1894. An ordinance appropriating three hundred and twenty-one thousand five hundred and thirteen and $\frac{20}{100}$ dollars with which to pay at maturity certain bonds aggregating \$300,000, designated "Series C," dated July 1, 1874, due twenty years after date thereof; certain National Encampment bonds aggregating \$20,000, maturing April 20, 1894, and the interest on \$35,000 of National Encampment bonds, which interest amounts in the aggregate to \$1,513.20, and will become due April 20, 1894; and fixing the time when the same shall take effect.

And was passed by the following vote:

AYES 19—viz: Messrs. Allen, Colter, Costello, Drew, Hennessy, Kaiser, Koehring, Krauss, Magel, Murphy, O'Brien, Puryear, Rauh, Schmid, Shaffer, Stein, Stott, Young and President Cooper.

NAYS—None.

On motion of Mr. Koehring, the following entitled ordinance was taken up and read the third time:

G. O. No. 11, 1894. An ordinance authorizing the sale and alienation of personal property belonging to the City of Indianapolis, and matters connected therewith, and fixing the time for the taking effect thereof.

Mr. Colter moved that the amendment to G. O. No. 11, 1894, as recommended by Special Committee on Public Property, be adopted.

Which motion prevailed.

G. O. No. 11, 1894, was then ordered engrossed as amended, and was passed by the following vote:

AYES 19—viz: Messrs. Allen, Colter, Costello, Drew, Hennessy, Kaiser, Koehring, Krauss, Magel, Murphy, O'Brien, Puryear, Rauh, Schmid, Shaffer, Stein, Stott, Young and President Cooper.

NAYS—None.

On motion of Mr. Drew, the following entitled ordinance was taken up, read second time, ordered engrossed, and then read the third time:

G. O. No. 25, 1894. An ordinance to change the name of Ludlow Lane to Ludlow Avenue.

And was passed by the following vote:

AYES 19—viz: Messrs. Allen, Colter, Costello, Drew, Hennessy, Kaiser, Koehring, Krauss, Magel, Murphy, O'Brien, Puryear, Rauh, Schmid, Shaffer, Stein, Stott, Young and President Cooper.

NAYS—None.

On motion of Mr. Young, the Common Council, at 8:35 o'clock P. M., adjourned.

ATTEST:

H. H. Cooper

Lee Nixon

President.

City Clerk.