

REGULAR MEETING.

COUNCIL CHAMBER,
CITY OF INDIANAPOLIS,
July 1, 1895. }

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, July 1, 1895, 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, Merritt, Murphy, O'Brien, Puryear, Rauh, Ryan, Schmid, Shaffer and Young.

Absent, 2—viz: Messrs. Stein and Stott.

The Clerk proceeded to read the Journal, whereupon Councilman Ryan 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.
June 29, 1895 }

To the President and Members of the Common Council:

GENTLEMEN—On account of the numerous annexations of new territory made to the city during the past twenty months, it has become a legal necessity to have new ward boundary lines established. The word "may," as used in Section 10 of the Charter, must be construed as "shall," under present conditions. The ordinance now pending, looking to the annexation of certain territory in the eastern part of the city, should be disposed of now, so that immediate steps may be taken to prepare and pass the required re-districting ordinance. The near approach of the next city election makes it important that there shall be no delay in regard to this matter.

It will also be necessary for you to pass a precinct boundary ordinance. In doing this, I hope it will not be necessary to change present precinct boundaries.

I will say that the legal views above expressed are concurred in by the City Attorney.

I trust that absolute fairness will be observed in the preparation of said ordinances in every respect.

2. Permit me again to respectfully call your attention to the question of viaducts.

It has recently been demonstrated that the proposed Massachusetts avenue viaduct is impracticable. I therefore withdraw my former recommendation as to the construction of one at that point. I have no reason to believe, however, that there are any similar or other unusual obstacles in the way of constructing viaducts at the other points suggested in my former communications. A safe and convenient passageway over the railroad tracks on Kentucky avenue, leading to West Indianapolis and the southwestern part of this city, has become a necessity. I, therefore, renew, with special emphasis, my former recommendations as to the construction of a viaduct at said point. In this connection, I ask you, also, to exercise all the powers conferred upon you to cause the taking up of the two railroad tracks now incumbering the north side of said avenue from the Vandalia track to White river. There is no longer any good reason why the Vincennes track should be maintained on that thoroughfare, while there are many strong reasons calling for its removal. The single one that its existence there prevents the improvement of the street, which is practicably impassable in bad weather, is alone sufficient. I think that negotiations properly commenced and presented to the company's officials would certainly demonstrate to them the absolute injustice of longer refusing the city's request. I respectfully urge that such negotiations be at once opened. Should friendly effort fail, it would appear that Section 23 of the City Charter confers the power on your honorable body to compel its removal, which I recommend be then exercised.

I trust satisfactory progress, at least, may be made in these matters during the remainder of our official term, so that our successors may not be delayed in completing these much-needed improvements. Respectfully submitted,

C. S. DENNY,
Mayor.

Which was read and referred to Committee on Elections and Committee on Railroads.

His Honor, the Mayor, presented the following communication :

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS, }
June 29, 1895. }

To the President and Members of the Common Council :

GENTLEMEN—I have approved the following ordinances and resolutions, passed and adopted by your Honorable Body on the dates named, to-wit: On June 15, the following resolutions:

Reso. No. 4, 1895. Appointing Inspectors and Judges of the election for school commissioners, etc.

Reso. No. 5, 1895. Inviting the Iron Moulders' Union of North America to meet in Indianapolis on the occasion of the next National convention. (These resolutions did not reach me until date of their approval)

App. O. No. 4, 1895. An ordinance appropriating \$1,500 for the purpose of defraying the expense of building engine houses. (Approved June 18, 1895.)

- G. O. No. 20, 1895. An ordinance defining a part of the boundary line of the City of Indianapolis, Indiana, so as to extend the same, and annexing to the City of Indianapolis certain territory contiguous thereto, etc., being the one annexing the Mapleton district. (Presented to me June 14, and approved June 18.)
- Spec. O. No. 1, 1895. An ordinance ratifying, confirming and approving a certain contract and agreement, relative to the payment of the assessments for that part of the main intercepting sewer that extends through condemned ground, etc. (Approved June 20.)
- Spec. App. O. No. 1, 1895. An ordinance appropriating \$5,963.04 to the Department of Public Works, for the payment of an assessment against the City of Indianapolis on account of the main intercepting sewer, as provided by compromise settlement contract, dated June 1, 1895, between the City of Indianapolis and F. Ballweg and others. (Approved June 20, 1895.)
- G. O. No. 24, 1895. An ordinance requiring the Lake Erie & Western and Louisville, New Albany & Chicago railway companies to station and maintain a flagman at Tenth street and said companies' tracks. (Presented to me and approved June 29, 1895.)
- G. O. No. 32, 1895. An ordinance authorizing the improvement of the roadway of Ft. Wayne avenue, etc., from the west property line of Alabama street to the south end of Central avenue, etc., with the best quality of Standard Asphalt Sheet Pavement, etc. (Presented to me and approved June 29, 1895.)

Respectfully submitted,

C. S. DENNY,
Mayor.

Which was read and ordered spread on the minutes.

REPORTS FROM OFFICIAL BOARDS.

Communication from Board of Public Works:

DEPARTMENT OF PUBLIC WORKS,
CITY OF INDIANAPOLIS, }
July 1, 1895. }

Mr. P. C. Trusler, City Comptroller:

DEAR SIR—We beg to respectfully request that you recommend to the Common Council this evening an appropriation of \$3,000, to be used by the Department of Public Works in needed repairs to Tomlinson Hall.

Very respectfully,

W. B. HOLTON,
E. L. ATKINSON,
JNO. OSTERMAN,
Board of Public Works.

I recommend that the appropriation as requested be made.

Respectfully,

P. C. TRUSLER,
City Comptroller.

Which was read and referred to Committee on Finance.

REPORTS, ETC., FROM STANDING COMMITTEES.

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

G. O No. 17, 1895. An ordinance regulating and fixing fees to be charged person or persons, firms or corporations licensed to excavate in the streets, alleys, sidewalks and public places in the City of Indianapolis; prescribing a penalty for violations thereof; repealing conflicting ordinances and providing for the publication of this ordinance.

Made the following report:

Mr. President:

Your committee to which was referred General Ordinance No. 17, 1895, "To license the digging into streets, etc.," beg leave to call your attention to the communication from the City Attorney, giving the opinion that the City Charter does not authorize the Common Council to regulate this whole matter. We recommend that the ordinance be stricken from the files.

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

DEPARTMENT OF LAW,
CITY OF INDIANAPOLIS,
June 21, 1895. }

Mr. L. W. Drew, Chairman Committee Sewers, Streets and Alleys:

DEAR SIR—I have examined pending ordinance No. 17, 1895, referred to me by you. I can not recommend it. In my judgment it confuses the powers and duties of the Council and the Board of Public Works. Section 59 of the Charter grants power to the Board "To license the digging into streets and to require bonds for damages and for the proper replacement of the street, and to refuse such licenses when the public interest requires it."

Section 23 empowers the Council to prohibit digging into streets, alleys and public places, etc.

I think the Common Council may, by ordinance, prohibit digging into streets, subject to the Board's power to license and require bonds against damages and for replacement. The ordinance under consideration, however, assumes to regulate the whole subject matter, which I do not think the Council can now do under the existing charter.

If it is deemed necessary that there should be any additional ordinance upon the subject, I think it should be drafted with reference to the powers respectively vested in the Board and the Council.

Yours respectfully,

J. E. SCOTT,
City Attorney.

Which was read and concurred in.

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

G. O. No. 19, 1895. An ordinance to amend Section 4 of an ordinance entitled "An ordinance declaring that all vehicles (except street railway cars) used in the transportation of persons and articles within the City of Indianapolis, for hire or pay, shall be deemed 'public vehicles'; establishing rules and regulations for the government of the owners, lessees and drivers thereof; and prescribing fines and punishments for violations of its provisions" being General Ordinance No. 40, 1879, passed by the Common Council of the City of Indianapolis, October 20, 1879, providing for the publication thereof, and fixing the time when the same shall take effect. Said ordinance having been amended December 20, 1893.

Made the following report:

Mr. President:

Your committee to which was referred General Ordinance No. 19, 1895, designed to relieve carriages from paying license fees, respectfully submit the opinion of the City Attorney that the ordinance would be void if passed. There seems to be no reason why the license fees should be collected off from drays and express wagons, while other vehicles in this class escape, even if it was legal.

We recommend that the ordinance be stricken from the files.

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

DEPARTMENT OF LAW,
CITY OF INDIANAPOLIS,
June 21, 1895. }

Mr. L. W. Drew, Chairman Committee Sewers, Streets and Alleys:

DEAR SIR—With respect to pending General Ordinance No. 19, 1895, submitted to me by you:

This ordinance purports to amend Section 4 of General Ordinance No. 40, 1879, setting out the title thereof. According to the recent compilation of ordinances, the ordinance sought to be amended was approved March 1, 1880. I have not examined the original files, but there would appear to be some mistake as to the identification of the ordinance sought to be amended, if the compilation is correct. Even if there is no mistake in the title, I do not think the ordinance, if passed, would be valid, because it purports to amend Section 4 of the original ordinance. This section of the original ordinance, having been amended by ordinance approved December 20, 1893, no longer exists, and can not be amended. The ordinance should amend the proper section of the ordinance approved December 20, 1893. If the amendments proposed, however, are passed, there is not much left of the original ordinance, and their several parts will not consist.

I do not know that I can say that an ordinance amending the ordinance approved December 20, 1893, and incorporating the provisions as embodied in the pending ordinance, would be void, but I am rather inclined to think it would; for this reason, the ordinance would declare that all omnibuses, hackney carriages, barouches, coaches, landaus, cabs, chariots, wagons, drays and all other similar vehicles (except street cars), whether on wheels or runners, drawn by one or more horses or other animal power, which may be used in conveying or transporting persons, baggage, freight or other articles from point to point within the city for hire or pay, shall be deemed public vehicles, having declared what public vehicles are as a class, the proposed amendment would then omit the greater part of this class from the license fee, at the same time imposing on a small part of the class a license fee. The proposed amendment contemplates omitting from the operation of the ordinance all of the class above enumerated, except wagons and drays. It would be the play of Hamlet with Hamlet and Ophelia both omitted.

It is possible also, though I am not certain, that the amendment would abate some suits now pending for the violation of the ordinance.

Yours respectfully,

J. E. SCOTT,
City Attorney.

Which was read and concurred in.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

Under this order of business, the following ordinance was introduced:

By Mr. Colter:

General Ordinance No. 36, 1895. An ordinance requiring the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company to station and maintain a flagman at the crossing of Pennsylvania street and the Louisville Division of said company's tracks in the city of Indianapolis, Indiana.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company be, and the same is, hereby required to station and maintain a flagman at the crossing of Pennsylvania street and the Louisville Division of said company's tracks (formerly the Jeffersonville, Madison & Indianapolis Railway Company's tracks) in the city of Indianapolis, the same to be done within ten days after the passage of this ordinance. Said flagman shall be a man over the age of twenty-one years, and his duties shall be to warn all persons, on foot or in vehicles, of the approach of all trains on the tracks of said railway company at said crossing, between the hours of seven (7) o'clock A. M. and six (6) o'clock P. M. of each and every day except Sundays. Said company is required to provide such flagman with a flag for use in daylight and a lantern for use at night. Every day said railway company shall fail or refuse to comply with any provision of this ordinance, it shall be liable to a fine not exceeding five dollars, and each day's failure to comply with any provision of this ordinance shall constitute a separate offense.

SEC. 2. This ordinance shall take effect and be in force from and after its passage and publication once each week for two weeks consecutively in "The Sun," a daily newspaper of general circulation printed and published in the city of Indianapolis, Marion County, Indiana.

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

MISCELLANEOUS BUSINESS.

The following communication was received:

THE INDIANA STATE BOARD OF AGRICULTURE,
INDIANAPOLIS, June 28, 1895. }

Hon. W. H. Cooper, President Common Council, City:

DEAR SIR—Will you kindly have such action taken by the Council that will re-

lieve the Citizens' Committee of paying for license to give the War Spectacle by the Innes Band at Pompeii Park July 9 and 10 next.

This is given for the benefit of the entire city, and there is no profit possible for any member of the committee, as their services are rendered gratuitously. By so doing you will greatly oblige,

Yours truly,

W. B. HOLTON,

Chairman Citizens' Committee.

Which was read and referred to Committee on Finance.

The following communication was received:

INDIANAPOLIS, IND., July 1, 1895.

To the Honorable Common Council:

The undersigned petitioners, directors of the Indianapolis Summer Amusement Company, respectfully request that you grant to the Summer Amusement Company the same privilege as to exemption from license granted the Fall of Pompeii management last fall. This enterprise is a public spirited one, designed to attract people to this city in the summer time, as well as to furnish outdoor entertainment for the people of the city. Excursions are to be run on a number of railroads from time to time.

Respectfully submitted,

O. R. JOHNSON,

GALVIN L. PAYNE,

T. H. MCLEAN,

A. J. BEVERIDGE,

H. S. FRASER,

Directors.

R. M. SEEDS,

Sec'y and Treas.

THOS. M. DEFREES,

President.

Which was read and referred to Committee on Finance.

ORDINANCES ON SECOND READING.

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

G. O. No. 34, 1895. An ordinance authorizing the improvement of the roadway of St. Clair street, in the City of Indianapolis, from the northwest property line of Massachusetts avenue to the west property line of Park avenue, north of St. Clair street, by grading and paving the roadway from curb to curb—a width of twenty-seven feet—with the best quality of Standard Trinidad Asphalt (commonly known as Pitch Lake Asphalt, mined directly from Pitch Lake in the Island of Trinidad), or Bermudez Asphalt, or asphalt of a quality equal in all respects or superior thereto, to be laid on a six-inch Portland Cement Concrete Foundation; by putting a marginal finish at street and alley intersections where needed; by curbing with new stone the outer edges of the sidewalks thereof, and paving and curbing the wings of all connecting streets and alleys between the above named points.

And was passed by the following vote :

AYES, 18—viz: Messrs. Allen, Colter, Costello, Drew, Hennessy, Kaiser, Koehring, Krauss, Magel, Merritt, Murphy, O'Brien, Puryear, Rauh, Ryan, Shaffer, Young and President Cooper.

NAYS—None.

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

G. O. No. 35, 1895. An ordinance authorizing the improvement of the roadway of St. Clair street, in the City of Indianapolis, from the west property line of Park avenue, north of St. Clair street, to the east property line of Mississippi street, excepting the intersections with Capitol avenue, Illinois street, Meridian street, Pennsylvania street, Delaware street, Ft. Wayne avenue, Alabama street and New Jersey street, by grading and paving the roadway from curb to curb, a width of twenty-four feet, with the best quality of Standard Trinidad Asphalt (commonly known as Pitch Lake Asphalt, mined directly from Pitch Lake in the Island of Trinidad), or Bermudez Asphalt, or asphalt of a quality equal in all respects or superior thereto, to be laid on a six-inch Portland Cement Concrete Foundation; by putting a marginal finish at street and alley intersections where needed; by curbing with new stone the outer edges of the sidewalks thereof; and paving and curbing the wings of all connecting streets and alleys between the above named points not already permanently improved with either brick, asphalt or wooden blocks.

And was passed by the following vote :

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

NAYS—None.

On motion of Mr. Drew, the following entitled ordinance was taken up and read a second time :

G. O. No. 17, 1895. An ordinance regulating and fixing fees to be charged person or persons, firms or corporations licensed to excavate in the streets, alleys, sidewalks or public places in the City of Indianapolis; prescribing a penalty for violations thereof; repealing conflicting ordinances, and providing for the publication of this ordinance.

And, on motion of Mr. Drew, was stricken from the files by the following vote :

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

NAYS—None.

On motion of Mr. Drew, the following entitled ordinance was taken up and read a second time :

G. O. No. 19, 1895. An ordinance to amend section 4 of an ordinance entitled "An ordinance declaring that all vehicles (except street railway cars) used in the transportation of persons and articles within the City of Indianapolis, for hire or pay, shall be deemed 'public vehicles;' establishing rules and regulations for the government of the owners, lessees and drivers thereof; and prescribing fines and punishments for violations of its provisions" being General Ordinance No. 40, 1879, passed by the Common Council of the City of Indianapolis, October 20, 1879, providing for the publication thereof, and fixing the time when the same shall take effect. Said ordinance having been amended December 20, 1893.

And, on motion of Mr. Drew, was stricken from the files by the following vote:

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

NAYS—None.

Mr. Hennessy moved that the Council do now adjourn.

Which motion was lost by the following vote:

AYES, 4—viz: Messrs. Colter, Costello, Hennessy and O'Brien.

NAYS, 15—viz: Messrs. Allen, Drew, Kaiser, Koehring, Krauss, Magel, Merritt, Murphy, Puryear, Rauh, Ryan, Schmid, Shaffer, Young and President Cooper.

On motion of Mr. Magel the following entitled ordinance was recalled from the Committee on Sewers, Streets and Alleys:

G. O. No. 33, 1895. An ordinance defining a part of the boundary line of the City of Indianapolis, Indiana, so as to extend the same, and annexing to the City of Indianapolis certain territory contiguous thereto; providing for the publication thereof, and fixing the time when the same shall take effect.

Mr. Ryan moves that G. O. No. 33, 1895, be referred back to Committee on Sewers, Streets and Alleys.

Mr. Merritt moved to lay Mr. Ryan's motion on the table.

Which motion prevailed.

On motion of Mr. Magel G. O. No. 33, 1895, was then read a second time.

Mr. Ryan moved that the remonstrance to G. O. No. 33, 1895, be read.

Which motion prevailed, and the following remonstrance was read:

To the Honorable Council of the City of Indianapolis, Ind :

The undersigned, residents and property owners of the territory east of the city of Indianapolis, proposed to be annexed by Ordinance No. 33, 1895, would earnestly and emphatically remonstrate against the passage of said ordinance for the following reasons:

1. That such annexation would not be of material benefit to the residents and property owners of said territory.
2. That said annexation would not be of material benefit to the City of Indianapolis.
3. That a great portion of said territory consists of unplatted ground.
4. That the City of Indianapolis, because of the great demands upon it, caused by the annexation of new territory, and because of its present financial condition, is and would be unable to give such territory adequate school facilities and proper fire and police protection.
5. That such annexation would impose upon such citizens onerous burdens in the way of taxation and costly improvements, without giving them adequate returns.
6. That many of the homes of said residents are being built through building associations, and such annexation with its attendant burdens would be most unjust to them.
7. That under existing financial conditions they feel absolutely unable to meet additional burdens and that adverse action would under such conditions amount to confiscation.
8. That no public or actual necessity exists for such annexation, and such action is earnestly opposed by the greater portion of such residents and is favored by but a few persons interested in real estate speculation. Wherefore they ask that action on such ordinance be delayed until the public and private necessities require such annexation.

[THIRTY-EIGHT SIGNERS.]

Mr. Costello moved that the Council do now adjourn.

Which motion was lost by the following vote:

AYES, 5—viz: Messrs. Colter, Costello, Hennessy, O'Brien and Ryan.

NAYS, 14—viz: Messrs. Allen, Drew, Kaiser, Koehring, Krauss, Magel, Merritt, Murphy, Puryear, Rauh, Schmid, Shaffer, Young and President Cooper.

On motion of Mr. Magel, G. O. No. 33, 1895, was then ordered engrossed, read a third time, and was passed by the following vote:

AYES, 14—viz: Messrs. Allen, Drew, Kaiser, Koehring, Krauss, Magel, Merritt, Murphy, Puryear, Rauh, Schmid, Shaffer, Young and President Cooper.

NAYS, 5—viz: Messrs. Colter, Costello, Hennessy, O'Brien and Ryan.

On motion of Mr. Ryan, the Common Council, at 9:15 o'clock P. M., adjourned.

W. H. Cooper

President.

ATTEST:

Lee Nixon

City Clerk.