

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, March 2, 1914.

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, March 2, 1914, at 7:30 o'clock, in regular session, President John F. Connor in the chair.

Present: The Hon. John F. Connor, President of the Common Council, and eight members, viz.: Messrs. Barry, Young, McGuff, Miller, Porter, Lee, Graham and Shea.

Mr. Porter moved that the reading of the journal be dispensed with. Carried.

COMMUNICATIONS FROM THE MAYOR.

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS.

INDIANAPOLIS, IND., February 26, 1914.

To the President and Members of the Common Council, City of Indianapolis:

GENTLEMEN—I have approved and signed Appropriation Ordinance No. 3, 1914, the same being an ordinance entitled, "An ordinance appropriating the sum of \$300 to and for the use of the Department of Finance for the fund 'Pay of Special City Judges,' and fixing the time when the same shall take effect."

I return the said ordinance herewith.

Yours very truly,
J. E. BELL,
Mayor.

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., February 26, 1914.

To the President and Members of the Common Council, City of Indianapolis:

GENTLEMEN—I have approved and signed Appropriation Ordinance No. 4, 1914, the same being an ordinance entitled, "An ordinance appropriating the sum of \$50 to and for the use of the Department of Finance for the payment of meals for jurors in the City Court, prescribing the method of payment and fixing the time when this ordinance shall take effect."

I return the said ordinance herewith.

Yours very truly,
J. E. BELL,
Mayor.

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., February 26, 1914.

To the President and Members of the Common Council, City of Indianapolis:

GENTLEMEN—I have approved and signed Appropriation Ordinance No. 5, 1914, the same being an ordinance entitled, "An ordinance appropriating \$15,000 to the Department of Public Works for flood repairs, and fixing a time when the same shall take effect."

I return the said ordinance herewith.

Yours very truly,
J. E. BELL,
Mayor.

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., February 26, 1914.

To the President and Members of the Common Council, City of Indianapolis:

GENTLEMEN—I have approved and signed Appropriation Ordinance No. 6, 1914, the same being an ordinance entitled, "An ordinance appropriating \$15,000 to the Department of Public Works for purchase of automobiles, and fixing a time when the same shall take effect."

I return the said ordinance herewith.

Yours very truly,
J. E. BELL,
Mayor.

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., February 26, 1914.

To the President and Members of the Common Council, City of Indianapolis:

GENTLEMEN—I have approved and signed General Ordinance No. 7, 1914, the same being an ordinance entitled, "An ordinance amending sections 4 and 15 of General Ordinance No. 72, 1912, of the City of Indianapolis, Indiana, creating the office of Commissioner of Buildings, with inspectors, assistants and clerical help, approved November 29, 1913."

I return the said ordinance herewith.

Yours very truly,
J. E. BELL,
Mayor.

REPORTS FROM CITY OFFICERS.

From City Controller:

FINANCE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., March 2, 1914.

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

GENTLEMEN—I send you herewith copies of letter of the German Investment and Securities Company, and opinion of Corporation Counsel Pickens thereon, concerning the liability of the city in the matter of the Brightwood sewer. Deducting the interest on benefits, for which I think Mr. Pickens properly holds the city is not liable, there is left approximately \$27,000 of clear liability. As the city has exhausted its legal rights in contesting the claim, and as it is drawing 6 per cent. interest, the only rational course appears to be to pay it at once. I therefore send you herewith an ordinance appropriating \$27,000 for this purpose, for which I ask your prompt consideration.

Respectfully submitted,
J. P. DUNN,
City Controller.

[COPY]

FINANCE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., February 25, 1914.

Mr. Jacob P. Dunn, City Controller, City of Indianapolis:

DEAR SIR—On March 27, 1912, the Board of Public Works of the City of Indianapolis approved the final assessment roll for a sewer in Thirtieth Street, Hillside Avenue, Glen Drive and other streets from Fall Creek to Brightwood Avenue, commonly known as the Brightwood sewer. Within

the time allowed by law certain property owners appealed to the Marion Superior Court, "*Hawkins et al. vs. The City of Indianapolis*. Cause No. 86681." In due course appraisers were appointed and reductions made in the assessments of the parties appealing totaling \$23,956.90. We append hereto a copy of the original assessments and reductions as made by the appraisers in said cause.

The following persons made tenders of the amounts of special benefits assessed against them by the appraisers to the then Treasurer of Marion County. These tenders were, on the advice of the City Attorney, refused.

Austin F. Denny,
Union Trust Company,
James H. Hooker,
Hollweg & Reese,
Charles W. Oakes,
Wm. P. Messersmith,
John W. Clark,
Butler University,
Wm. F. Shimp,
Martha E. Younk.

The following persons demanded the right of the City Controller to take the Barrett Law for the amount of the assessments as fixed by the appraisers, to wit:—

Ernest W. and Amanda Brown,
Anna Belle Richards,
Florence Waddington,
Eliza Harper,
Carl Hamp,
William Ward,
Minnie Bunting,
Alvin Beard.

Sutherland and Losey tendered the amount of their assessment in cash as fixed by the appraisers to the *Controller*.

The Controller permitted the property owners to sign date-back waivers, but refused to issue any bonds covering the assessments for which waivers had been signed. The city refused to certify the amount of the reductions to the Controller and Treasurer of the City of Indianapolis, though demand was made that they do this, but appealed to the Supreme Court. This appeal was dismissed by the Supreme Court the latter part of last year.

A short time ago the present Board of Public Works, upon our demand and the advice of the City Attorney, certified the corrected assessments to the Treasurer of the City of Indianapolis and to you. Our company is the owner, by assignment from the contractor, of all the assessments and bonds for the Brightwood sewer, and we are entitled to the money due the contractor under his contract with the City of Indianapolis. We call your attention to the case of "*City of Indianapolis vs. American Construction Company*, 96 N. E. 608," decided by our Supreme Court some time ago, wherein it was held that the city must pay the *difference between the amount of special benefits* as fixed by the Board of Public Works and the amount of special benefits as fixed by the appraisers.

After the corrections were certified by the Board of Public Works as above set out, bonds were issued in the sum of \$5,000, and you still have in your hands, so we understand, waivers for \$509.11 on which, we are informed, it is your intention to issue bonds. We have been informed that you also intend issuing bonds for assessments on which waivers are signed on or before March 6, 1914, that date being 30 days after corrected assessments were certified to you and the Treasurer. All these bonds are dated back to the time of the approval of the final assessment roll, so that the

interest on that amount is taken care of. In our opinion there can be no doubt that the city is liable for the amount of the *reductions* to us as assignee of the contractor, and also interest on the amount thereof, at the rate of six (6) per cent. per annum from the date of the *approval of the final assessment roll* to the date of the payment thereof.

Furthermore, we are clear that the city should pay the interest on the amount for which the appealing property owners are liable from the date of the approval of the assessment roll until February 6, 1914, when the Board of Public Works certified said amounts to the Treasurer and to you, unless, of course, any of said property owners should sign the Barrett Law before the expiration of the time that you have fixed.

We therefore respectfully request that you have an ordinance prepared appropriating the money necessary to pay the amount to us as soon as possible.

Respectfully yours,
GERMAN INVESTMENT & SECURITIES CO.
By.....

P. S.—We desire to call your particular attention to the fact that because of the dilatory tactics employed by the city we have been deprived of the money rightfully due us since March, 1912. You will find by examining the record in the Hawkins case that the city, after its motion for a new trial was overruled, prayed an appeal to the Supreme Court, which it did not perfect until almost the last day allowed by law, and it is for this reason that we insist that we are entitled to interest on the entire amount due us.

Respectfully,
GERMAN INVESTMENT & SECURITIES CO.
By.....

STATEMENT OF CLAIM OF GERMAN INVESTMENT & SECURITIES COMPANY.

Total amount of reductions.....	\$23,956.90
Interest on amount of reductions from March 27, 1912, to March 27, 1914, at 6 per cent.....	2,874.82
Total amount of benefits.....	\$14,611.43
Less amount of Barrett Law taken.....	5,509.11
	<hr/>
Amount of benefits on which interest is computed.....	\$9,102.32
Interest on same from March 27, 1912, to March 27, 1914.....	1,092.28
	<hr/>
	\$27,924.00
Hawkins, Edward, paid the interest on benefits as assessed against him	113.49
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Total amount due the German Investment & Securities Company.	\$27,810.51

[COPY]

FINANCE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., February 26, 1914.

Hon. Jacob P. Dunn, City Controller, City Hall, City:

“INTEREST ON REVISED ASSESSMENTS.”

DEAR SIR—I have given consideration to the letter of the German Investment & Securities Company to you, concerning the payment of assessments on the Brightwood sewer.

Where assessments of benefits are made for a public improvement and the party against whom the assessment is made appeals to court and secures a reduction, the city must pay the contractor the difference between the original assessment and the assessment as reduced.

The city must also pay interest at the rate of 6 per cent. on that difference from the time of the approval of the final assessment roll to the date of payment.

The appealing property owner must pay the interest on his corrected assessment from the date of the approval of the final assessment roll. I note that Mr. Seidensticker, for the above-named company, takes the position that the city should pay this interest from the date of the approval of the assessment roll until the date when the Board of Public Works certified the amounts to the Treasurer. I can not agree with him on this question. The court, in fixing the assessments, necessarily finds that that is the portion payable by the property owner, and if it be payable by him at the time of the finding of the court, it is because such was an assessment proper to have been made at the time of the final approval of the assessment roll, and it was, therefore, owing by the property owner from that date, and he should pay any interest that is owing, and the city should not pay it.

Bonds issued on account of assessments which have been corrected by the court should be dated back to the date of the final improvement of the assessment roll.

If I have failed in this opinion to cover any question involved, please call my attention to it at once.

Yours very truly,

.....,
Corporation Counsel.

INTRODUCTION OF APPROPRIATION ORDINANCES.

By City Controller:

Appropriation Ordinance No. 7, 1914: An ordinance appropriating twenty-seven thousand dollars to the Department of Finance for the payment of claims for reductions of assessments on the Brightwood sewer, and fixing a time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, that the sum of twenty-seven thousand dollars (\$27,000) be and the same is hereby appropriated to and for the use of the Department of Finance for the payment of claims for reductions of assessments on the Brightwood sewer.

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

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

Mr. Barry moved that the rules be suspended and Appropriation Ordinance No. 7, 1914, be placed upon its passage.

The roll was called and the motion to suspend the rules carried by the following vote:

Ayes, 9, viz.: Messrs. Barry, Young, Miller, McGuff, Porter, Lee, Graham, Shea and President John F. Connor.

Mr. Barry called for Appropriation Ordinance No. 7, 1914, for second reading. It was read a second time.

Mr. Barry moved that Appropriation Ordinance No. 7, 1914, be ordered engrossed, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 7, 1914, was read a third time and passed by the following vote:

Ayes, 9, viz.: Messrs. Barry, Young, Miller, McGuff, Porter, Lee, Graham, Shea and President John F. Connor.

By unanimous consent the Council referred back in the Order of Business.

REPORTS FROM CITY OFFICERS.

From City Controller:

FINANCE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., March 2, 1914.

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

GENTLEMEN—Owing to various unanticipated changes in office, due to the resignation of Mayor Shank, there is a deficiency in the appropriation for

bonds of city officers, which prevents payment for all the bonds required by the city ordinances. I therefore request an additional appropriation of one hundred dollars (\$100) to this fund, and inclose ordinance herewith for that purpose.

Respectfully submitted,

J. P. DUNN,
City Controller.

INTRODUCTION OF APPROPRIATION ORDINANCES.

By City Controller:

Appropriation Ordinance No. 8, 1914: An ordinance appropriating one hundred dollars to the Department of Finance for the payment of official bonds, and fixing a time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, that there be and is hereby appropriated the sum of one hundred dollars (\$100) to and for the use of the Department of Finance, to be credited to the fund for the payment for official bonds.

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

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

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

By Mr. Lee:

General Ordinance No. 8, 1914: An ordinance requiring a flagman to be stationed by the Cleveland, Cincinnati, Chicago & St. Louis Railroad Company at the crossing of said company's tracks over Tibbs Avenue, in the City of Indianapolis, Indiana.

Be it ordained by the Common Council of the City of Indianapolis, That:

SECTION 1. It shall be the duty of every person connected with the control or management of the Cleveland, Cincinnati, Chicago & St. Louis Railroad Company to cause a flagman to be stationed at the said company's tracks crossing over Tibbs Avenue, in the City of Indianapolis, Indiana.

SECTION 2. Any of the executive officers of said railroad company who

shall fail or neglect to cause a flagman to be stationed at said crossing here-
inbefore provided, shall be fined in any sum not exceeding \$100 for each
day's neglect to provide such flagman as herein specified.

SECTION 3. Said flagman shall be provided with proper conspicuous sig-
nals, and shall give proper and timely notice to all persons about to cross
such railroad track or tracks of the approach of any locomotive or train,
and said flagman shall prevent persons from standing upon the tracks at
said crossing.

SECTION 4. The hours of duty for such flagman shall be from 6 o'clock
A. M. until 6 o'clock P. M. of each day of the week except Sunday.

SECTION 5. This ordinance shall be in full force and effect from and
after its passage and publication once each week for two consecutive weeks
in the

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

By Mr. Miller :

General Ordinance No. 9, 1914: An ordinance requiring a flagman to be
stationed by the Cleveland, Cincinnati, Chicago & St. Louis Railroad
Company at the crossing of said company's tracks over South Harris
Avenue, in the City of Indianapolis, Indiana.

Be it ordained by the Common Council of the City of Indianapolis, That :

SECTION 1. It shall be the duty of every person connected with the con-
trol or management of the Cleveland, Cincinnati, Chicago & St. Louis Rail-
road Company to cause a flagman to be stationed at the said company's
tracks crossing over South Harris Avenue, in the City of Indianapolis, In-
diana.

SECTION 2. Any of the executive officers of said Railroad Company who
shall fail or neglect to cause a flagman to be stationed at said crossing
hereinbefore provided shall be fined in any sum not exceeding \$100 for
each day's neglect to provide such flagman as herein specified.

SECTION 3. Said flagman shall be provided with proper conspicuous sig-
nals, and shall give proper and timely notice to all persons about to cross
such railroad track or tracks of the approach of any locomotive or train,
and said flagman shall prevent persons from standing upon the tracks at
said crossing.

SECTION 4. The hours of duty for such flagman shall be from 6 o'clock
A. M. until 6 o'clock P. M. of each day of the week except Sunday.

SECTION 5. This ordinance shall be in full force and effect from and
after its passage and publication once each week for two consecutive weeks
in the

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

By Mr. Porter :

General Ordinance No. 10, 1914: An ordinance requiring the Chicago, Indianapolis & Louisville Railway Company and the Lake Erie & Western Railway Company to station and maintain a flagman at the intersection of said company's tracks with Thirtieth Street, in the City of Indianapolis, and providing a penalty for the violation thereof, and fixing a time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis that the Chicago, Indianapolis & Louisville Railway Company and Lake Erie & Western Railway Company be and they are hereby required to station and maintain a flagman at the intersection of their tracks with Thirtieth Street, in the City of Indianapolis, whose duty it shall be to warn all persons and vehicles crossing said tracks at Thirtieth Street of the approach of all engines, trains and cars, and which flagman shall be on duty at all times in the day.

SECTION 2. For the failure to comply with any of the provisions of this ordinance by said railway companies, upon conviction shall be fined in any sum not exceeding fifty dollars (\$50, and each day's continued violation of the provisions of this ordinance shall constitute a separate offense.

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Passed in Council....., 1914.

.....
President.

ATTEST:

.....
City Clerk.

Presented by me to the Mayor of the City of Indianapolis, Indiana,....., 1914.

.....
City Clerk.

Approved and signed by me,....., 1914.

.....
Mayor.

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

By Mr. Miller :

General Ordinance No. 11, 1914: An ordinance regulating the operation of electric cars, providing restrictions as to the speed and operation of the same.

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 op-

erating or moving any street or interurban cars of any kind to cause the same to be operated, driven or moved at a speed in excess of eight miles per hour within the limits of the said City of Indianapolis.

SECTION 2. It shall be unlawful for any person or persons operating or moving any street or interurban car within the limits of said city to drive or move any such car or cars to within 50 feet of any other car or cars going or being moved in the same direction and upon the same track. In case of a car stopping, the car immediately following must not approach closer than within 50 feet of same, and said car following shall resume its movement only after such preceding car or cars have been driven or moved forward.

SECTION 3. It shall be unlawful for any street or interurban electric car or train commonly known as a freight or express train hauling freight or express only, and not providing for the transportation of passengers, to depart from the freight houses or express stations in the City of Indianapolis, Indiana, during the hours from 6:30 A. M. to 8:30 A. M. and 11:30 A. M. to 1 o'clock P. M. and from 5 P. M. to 7 P. M.

SECTION 4. Any person or persons violating any of the provisions of this ordinance shall be fined upon conviction in any sum not less than ten (10) dollars nor more than one hundred (100) dollars for each violation.

SECTION 5. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. This ordinance shall be in full force and effect from and after its passage and publication once each week for two consecutive weeks in The Indianapolis Sun, a newspaper of general circulation printed and published in the City of Indianapolis.

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

By Mr. Lee:

General Ordinance No. 12, 1914: An ordinance regulating the hour for closing pawnshops and second-hand stores.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, that the business of pawnbroking as referred to and intended by this ordinance shall mean the lending of money on deposit or pledge of personal property or other valuable thing, or the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price. The business of second-hand dealing as referred to and intended by this ordinance shall mean the purchasing or selling of second-hand property of any description whatsoever.

SECTION 2. It shall be unlawful for any person, persons, firm or corporation engaged in the business of pawnbroking or second-hand dealing to receive as a pawn, pledge or purchase, or to sell or loan out upon any condition whatsoever, any article of personal property or other valuable thing, while engaged in such business, after the hour of 6:30 P. M. on any day.

SECTION 3. Any person, firm or corporation violating any of the provisions of this ordinance shall upon the conviction thereof be fined in any sum not exceeding one hundred dollars nor less than five dollars, to which may be added imprisonment in the Marion County Workhouse for any term not to exceed ten days.

SECTION 4. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

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

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

John F. Connor
.....
President.

ATTEST:

Thomas A. Riley
.....
City Clerk.

