

PROCEEDINGS
OF THE
COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS,
MONDAY, OCTOBER 23D, 1865, 7 O'CLOCK, P. M. }

The Common Council met in regular session.

Present—His Honor, the Mayor, John Caven, in the chair; and the following members at first roll-call :

Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—13.

Absent—Councilmen Allen, Colley, Grosvenor, Jameson and Seidensticker —5.

The proceedings of the regular session, held October 16th, 1865, were read and approved.

By Mr. Lefever—Petition :

INDIANAPOLIS, October 23, 1865.

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

Your petitioners represent that an immediate necessity exists for the building of the bridge across the Canal at Ray street crossing, on account of its being late in the season, and the wants of those who wish to use the bridge this fall to cross, to proposed buildings, &c. We will therefore build the bridge at once at the estimates of the City Engineer or the Committee who make an examination of bids. We earnestly wish the bridge built at once and propose to build it ourselves, as above stated, in order to avail ourselves of it, and accommodate those wishing to improve west of Canal to supply themselves with houses before winter.

James H. McKernan,
Winslow S. Pierce,

S. Yandes,
Nicholas McCarty.

On motion, the prayer of the petitioners was granted; and they authorized to build the bridge according to plans and specifications to be furnished by the Civil Engineer.

His Honor, the Mayor, offered the following :

INDIANAPOLIS, October 23, 1865.

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

GENTLEMEN:—We hereby present for your consideration the following subject:

Having no foundling hospital in our city there are infants, a large number of whom have been thrown on our care for support and sympathy, who, from their total helplessness, have stronger claims on the heart of the philanthropist than any other class. These we find the most expensive to provide for the comfort of. And, in view of approaching winter and the low state of our funds, we have deemed it right, gentlemen, to earnestly appeal to your benevolence on behalf of these, and respectfully ask you to appropriate \$—— for this year, for such alone as are "City Foundlings," and abide such method of distribution as you may suggest.

Presented by order of a called meeting of the Board of Directors of the Orphan Asylum, held October 6, 1865.

Drusilla Wilson, *President.*

Anna C. Baggs, *Treasurer.*

S. A. Wright,

Cordelia Wallace,

Anna E. Woodburn.

Hannah T. Hadley.

Mr. Brown moved that the rules be suspended, and Mr. Alfred Harrison invited to address the Council on the subject embraced in the petition.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Kappes, Lefever, Loomis, Schmidt, Staub and Thompson—13. Noes, none.

So the rules were suspended.

Mr. Harrison then addressed the Council on the subject, giving a brief history of the operations of the "Orphan Asylum," and asked that the Council make an appropriation of two hundred dollars for the benefit of the Asylum for the next six months, pledging himself to have a full and true account of the disbursement of the same rendered to the Council.

On motion of Mr. Brown the petition was referred to the Committee on Benevolence, with instructions to report an ordinance making an appropriation in compliance with the prayer of the petitioners.

By Mr. Brown—Petition :

INDIANAPOLIS, October 23, 1865.

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

GENTLEMEN :—The undersigned respectfully ask your honorable body to cause the alley running east and west, between lots four and five in out-lot 16 in the City of Indianapolis, to be vacated. The lots are school lots, and are the only real estate abutting upon said alley.

Your petitioners represent that it would be of great advantage to said lots to cause said alley to be vacated, and respectfully ask that the Clerk be instructed to furnish the Trustees of the Public Schools with proper notices for publication, and that said alley be vacated.

T. B. ELLIOTT,	} Trustees.
W. H. L. NOBLE,	
C. VONNEGUT,	

Which, on motion, was referred to the Committee on Streets and Alleys.

By Mr. Kappes—Petition :

INDIANAPOLIS, October 23, 1865.

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

GENTLEMEN :—We, the undersigned, would most respectfully petition your honorable body to so amend the ordinance prohibiting the erection of wooden awnings on Washington street as that its provisions may apply to Pennsylvania street, between Washington street and Market street; or to pass an ordinance prohibiting the erection, and directing the removal of wooden awnings on Pennsylvania street, between Washington and Market streets.

A. E. Vinton,	C. H. Davidge,
W. H. Talbott,	A. W. Sharpe,
E. B. Martindale,	Alex. C. Jameson,
D. W. Grubbs,	W. Henderson.
J. F. Wingate,	

Which, on motion, of Dr. Jameson, was referred to the Committee on Revision of Ordinances with instructions to report an ordinance amending the ordinance, in relation to wooden awnings and sheds, in compliance with the prayer of the petitioners.

By Mr. Lefever—Remonstrance :

INDIANAPOLIS, September 25, 1865.

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

The undersigned respectfully but earnestly remonstrate against granting the petition of W. C. Holmes, for the vacation of a portion of Water street, as the same would be an injury to us.

MERRITT & COUGHLIN,
J. McLENE & CO,

Which, on motion, was laid upon the table.

Mr. Glazier introduced special ordinance No. 79, entitled :

AN ORDINANCE to provide for furnishing and erecting lamp-posts, lamps and fixtures on South street, between Delaware and New Jersey streets,

Which was read the first time, and, on motion, was read the second time.

By Mr. Coburn :

AN ORDINANCE appropriating money for the repairing and cleaning of streets and gutters, and the re-building and repairing of bridges and constructing culverts and foot-bridges :

SECTION 1. *Be it ordained by the Common Council of the City of Indianapolis,* That the sum of four thousand dollars be appropriated for the use of Street Commissioner, to be expended by said officer under the direction of the Board of Public Improvements, in the repairing and cleaning of streets and gutters, and repairing bridges and culverts, and to be accounted for by him in the same manner as other moneys heretofore appropriated.

SEC. 2. This ordinance to be in force from and after its passage.

Ordained and established this 23d day of October, 1865.

J. CAVEN, *Mayor.*

Attest:

C. S. BUTTERFIELD, *City Clerk.*

Which was read the first time; and, on motion, was read the second time.

Mr. Coburn then moved that the rules be suspended and the ordinance read the third time and placed upon its passage.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—14. Noes, none.

So the rules were suspended and the ordinance read the third time.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—14. Noes, none.

So the ordinance passed.

By Mr. Coburn, from the Committee on Accounts and Claims :

INDIANAPOLIS, October 23, 1865.

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

GENTLEMEN:—The Committee on Accounts and Claims report the following ordinance allowing the following account, and respectfully recommend the passage of the same, and that the same be paid in cash.

HENRY COBURN,	} <i>Committee.</i>
J. HENRY KAPPES,	
W. CLINTON THOMPSON,	

AN ORDINANCE appropriating money for the payment of sundry claims against the City of Indianapolis :

SECTION 1. *Be it ordained by the Common Council of the City of Indianapolis,* That the following named person be allowed the amount set opposite his

name, from any moneys in the City Treasury not otherwise appropriated, as follows, to-wit:

Joseph Kruger, street improvement, - - - - - \$28 78

SEC. 2. The City Clerk is hereby authorized and directed to issue warrants upon the City Treasurer, to the person named, and for the amount as set forth in Section 1st of this ordinance, and the City Treasurer is authorized and directed to cash the same on presentation.

SEC. 3. This ordinance shall take effect and be in force from and after its passage.

Ordnained and established this 23d day of October, 1865.

JOHN CAVEN, *Mayor*.

Attest:

C. S. BUTTERFIELD, *City Clerk*.

The ordinance was read the first time, and, on motion, was read the second time.

Mr. Coburn then moved that the rules be suspended and the ordinance read the third time and placed upon its passage.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—14. Noes, none.

So the rules were suspended and the ordinance read the third time.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—14. Noes, none.

So the ordinance passed.

By Mr. Brown, from the Committee on Streets and Alleys:

INDIANAPOLIS, Oct. 23, 1865.

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

The Committee on Streets and Alleys, to whom was referred the petition of Charles G. Mueller, reports that the last clause of section 6, of an ordinance describing the powers, functions, and duties of general city officers, passed May 4, 1864, (page 71, revised ordinances,) fixes the rules to be observed in surveying for the ascertainment of lines, corners, and dimensions of lots, and the Committee has been informed by the Engineer that since this petition was presented to Council, that two competent surveyors—James W. Brown and D. B. Hosbrook—have surveyed the ground mentioned in such petition, and that their survey agrees with that of the City Engineer.

AUSTIN H. BROWN,

Chairman Committee on Streets and Alleys.

Which, on motion, was concurred in.

Mr. Boaz, from the Committee on Police, presented charges against Day Patrolman James N. Stevens, of the Second Police District, signed by Jesse M. VauBlaricum, Chief of Police, giving as witnesses Mary Heinman, John McDougal, and others.

Which, on motion, was referred to a special committee, consisting of William Boaz, Henry Coburn and J. H. Kappes.

From the Civil Engineer—Report and Resolutions :

INDIANAPOLIS, October 23, 1865.

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

The Civil Engineer respectfully reports to the Council :

1. That William Cowen, the contractor for grading and graveling Wabash street and sidewalks between Noble and East streets, has finished the same according to contract, and an estimate is herewith reported in his favor for your approval.

2. That John Stumph, the contractor for grading and bouldering Circle street, Market street between Pennsylvania and Illinois street, Meridian street between Washington and Ohio streets, and curbing the outer edges of the sidewalks with stone, has finished the same according to contract, and an estimate is herewith reported in his favor for your approval.

3. That John Stumph, the contractor for grading, paving and curbing the sidewalks on Ohio street, between Pennsylvania and Tennessee streets, has completed the same according to contract, and an estimate is herewith reported in his favor for your approval.

4. That Messrs. Coulter and White, contractors for furnishing and erecting lamp posts, lamps and fixtures on Meridian street, between Pogue's Run and McCarty street, have completed the same according to contract, and an estimate is herewith reported in their favor for your approval.

5. That Daniel Mahoney, the contractor for grading and graveling Fort Wayne Avenue and sidewalks, between Alabama street and corporation line north, has completed the same according to contract, and an estimate is herewith reported in his favor for your approval.

JAMES WOOD, *Civil Engineer.*

Resolved, That the first and final estimate allowed William Kowan for grading and graveling Wabash street and sidewalks, between Noble and East streets, be and the same is hereby adopted as the estimate of this Council, and that the property holders 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 Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—14. Noes, none.

So the resolution passed.

The question being on the approval of the estimate for the grading, bouldering, and curbing of Circle and Market streets,

Mr. Brown called for a report from the Board of Engineers, who were appointed to examine the bouldering of said streets.

Mr. Stein, from the Board of Engineers, submitted the following report, to-wit:

INDIANAPOLIS, Oct. 23, 1865.

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

GENTLEMEN:—The undersigned, a committee appointed (as they have been informed by members of the Council) to examine the work recently done in grading and bouldering Circle street, now report the result of such examination.

The specifications set forth in the contract of Joseph Kruger & Co., dated February 6, 1865, requires the whole width of the streets therein named, (Circle street being one of them,) exclusive of sidewalks, to be graded according to stakes set by the Engineer, and bouldered with stone assorted in three sizes, the smallest size to be not less than four nor more than six inches deep, and to be laid in the centre of the street. The second size to be not less than six nor more than eight inches in depth, and to be laid on each side of the center course. The largest size not to exceed ten inches in depth, and to be laid in the gutters; all to be close laid on their ends, upon a bed of sand twelve inches deep. The whole to be completed by the first day of September, 1865.

As the grading of the street was to conform to stakes set by the Engineer, the committee have no means of determining whether or not that part of the contract has been complied with. The bouldering, however, and depth of sand upon which the boulders were laid, were plainly shown at the openings made, on last Friday, at several points across the north half of Circle street, and supposing this to be a fair sample of all the work done under the contract, we arrive at the following result: And first, in reference to the depth of sand upon which the boulders were required to be laid:

If an allowance of 25 per cent. for settling be made, leaving the contract depth (at present) 9 inches, we can report but about 10 feet in length of section with that depth.

We suppose, from the irregular depth of the sand, that the grading was not accurately done; this, however, does not effect the result. The average depth of sand on all the sections examined (some 300 feet) could not at first have exceeded 6 inches, as it *now* does not average more than $4\frac{1}{2}$ inches.

The boulders examined by us (and they may be seen now on the street, where they were thrown when taken up,) had been laid across the entire width of Circle street and are supposed to be a fair sample of those laid on other portions thereof. Of these we find about one-third ($\frac{1}{3}$) below the smallest dimensions (4 inches) required in the contract. Of the largest size (10 inches in depth) enough can be found to pave about one-half of the gutters. The specifications do not designate the distance which each size boulder should occupy, nor is it necessary for us to know.

Believing that the foregoing comprises the substance of what the Council desired, we subscribe ourselves, respectfully,

L. B. WILSON,	} Committee.
F. STEIN,	
J. W. BROWN,	

Mr. Brown moved that the rules be suspended, and Mr. Harrison be permitted to address the Council on the subject.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Kappes, Lefever, Loomis, McArthur, Schmidt, Staub and Thompson—13. Noes, none.

So the rules were suspended.

Mr. Harrison then addressed the Council on the subject, in favor of the property holders, and against the approval of the estimates as reported by the Civil Engineer.

On motion, the whole matter was postponed.

Resolved, That the first and final estimate allowed John Stumph for grading, paving and curbing the sidewalks on Ohio street, between Pennsylvania 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 Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—13. Noes, none.

So the resolution passed.

Resolved, That the first and final estimate allowed Messrs. Coulter and White for furnishing and erecting lamp posts, lamps and fixtures on Meridian street, between Pogue's Run and McCarty street, be and the same is hereby adopted as the estimate of this Council, and 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, Coburn, Emerson, Fletcher, Glazier, Jameson, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—12. Noes, none.

So the resolution passed.

Resolved, That the first and final estimate allowed Daniel Mahoney for grading and graveling Fort Wayne Avenue and sidewalks between Alabama street and the corporation line north, be and the same is hereby adopted as the estimate of this Council, and 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, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—13. Noes, none.

So the resolution passed.

From the City Attorney—Report :

INDIANAPOLIS, October 23, 1865.

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

GENTLEMEN:—I have examined the questions arising upon the petition to vacate Water street, and the remonstrance against vacating it, and submit the following opinion :

I think that at the time the second notice was given by Mr. Holmes, the petition and remonstrance were both pending before the Council. The re-

monstrants, not electing to make any question respecting the notice, had appeared and remonstrated, and the action of Mr. Holmes in continuing for proper notice did not dispose of the pending remonstrance. The case is very clearly analogous to an action at law where some of the defendants appear and answer, and the plaintiff continues as to others for process—the defendants, who have answered, remain in court.

The remonstrance does not show that the remonstrants are the owners of the fee, but merely lessees, and it is necessary to inquire whether they can successfully oppose the vacation of the street. The statute provides that no street shall be vacated unless the consent of the adjoining owner be first obtained. A lessee has an interest in the real estate adjacent to the street, and this gives him a right in the street itself. This right the Legislature itself cannot take away unless the street is seized by virtue of the right of eminent domain for public purposes. The rule is thus stated by our Supreme Court in the case of *Haynes v. Thomas*, 7 Ind., 43: "The right to use a street in a town adjoining a lot abutting upon it, is as much property as the lot itself, and the Legislature has as little power to take away one as the other." The tenant's right to enjoy the real estate and appurtenances of which he has possession during the existence of his lease, is the same as that of his landlord at the time of the execution of the lease.

I am of the opinion that the prayer of the petitioner cannot be granted by Council against the will of the remonstrants.

B. K. ELLIOTT, *City Attorney*.

Which, on motion of Mr. Brown, was concurred in, and the order of vacation, and report of Committee on Streets and Alleys, and all other papers belonging thereto, laid upon the table.

Mr. Kappes called up Special Ordinance No. 75, entitled:

AN ORDINANCE to provide for furnishing and erecting lamp-posts, lamps and fixtures on North Alabama street, between Vermont street and North street,

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 Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Loomis, MacArthur, Schmidt, Staub and Thompson—14. Noes, none.

So the ordinance passed.

Dr. W. Clinton Thompson moved—

That David Creglow have permission to level his gutter on Indiana Avenue in front of his dwelling, provided it is done under the direction of the City Engineer.

Which motion prevailed.

Mr. Boaz moved—

That there be appointed a special committee of one Councilman from each ward, whose duty it shall be to examine the bouldering of Circle, Market, and Meridian streets, and report whether the same has been done according to contract.

Which motion prevailed.

His Honor, the Mayor, appointed as such committee the following Councilmen :

- 1st Ward—Dr. P. H. Jameson.
- 2d Ward—J. Henry Kappes.
- 3d Ward—Dr. W. Clinton Thompson.
- 4th Ward—R. B. Emerson.
- 5th Ward—J. A. Grosvenor.
- 6th Ward—Austin H. Brown.
- 7th Ward—C. F. Schmidt.
- 8th Ward—W. H. Loomis.
- 9th Ward—Joseph Staub.

Dr. Jameson moved—

That the property holders on North street, between Alabama and East streets, be permitted to grade and gravel the same in accordance with the ordinance now in force for the grading and graveling of said street; and that the Engineer be directed to set the proper stakes.

Which motion prevailed.

Dr. Jameson moved—

That the Committee on Revision of Ordinances are hereby directed to report an ordinance repealing the 37th section of an ordinance "regulating and protecting streets, alleys, sidewalks, gutters, shade trees, &c., &c."

Which motion prevailed.

Mr. Brown moved—

That the City Clerk be instructed to give the requisite notice to the Street and Alleys Commissioners of the pendency of the petition of Henry Raymond, Edward T. Sinker, and others, for the opening of New Jersey street ninety (90) feet in width between Merrill and McCarty streets; and that the Common Council require such Commissioners to assess the damages and benefits against or in favor of the property holders that may be caused by the opening of such street.

Which motion prevailed.

Mr. Loomis moved—

That the City Clerk be instructed to give the requisite notice to the Street and Alley Commissioners of the pendency of the petition of Fred. Hillman, and others, for the opening of Waters street, between the north line of the second alley north of McCarty street and Stevens street, and that the City Council require such Commissioners to assess the damages and benefits against or in favor of the property holders, that may be caused by the opening of such street.

Which motion prevailed.

Mr. Loomis moved—

That L. Bass be and is hereby permitted to gravel the sidewalk in front of his property on Benton street—square 89, lot No. 29—at his own expense, under the direction of the City Engineer.

Which motion prevailed.

Mr. Glazier moved—

That the Marshal notify the painters to put the glass in the windows that they broke out in the Council Chamber, while painting the building.

Which motion prevailed.

UNFINISHED BUSINESS.

By Mr. Brown—Petition :

INDIANAPOLIS, October 14, 1865.

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

The undersigned, citizens and owners of property on Pratt street, between Meridian and Illinois streets, beg your honorable body to permit us to grade and gravel said street and sidewalks from Meridian street to the alley, with good pit gravel, under the direction of the City Engineer.

JESSE D. CARMICHAEL,
DELOSS ROOT,
JOHN H. OHR.

Which, on motion, was referred to the Board of Public Improvements.

Mr. Brown presented a paper from D. N. Davidson, in relation to flagmen at crossings of Railroad tracks with the streets of the City.

Which was laid upon the table.

Dr. Jameson presented a communication from Dr. J. H. Jordan, Editor and Publisher of the Evening Gazette, in relation to his account for printing and advertising.

Which, on motion, was referred to the Committees on Accounts and Claims.

Mr. Boaz presented a license issued to L. B. Lent to exhibit Stereoscopic Views, which he, Lent, asked to have the fee remitted for the reason that he did not exhibit the show.

Which, on motion, was laid upon the table.

On motion of Dr. Thompson, the Council adjourned.

Present at roll-call on adjournment: Councilmen Boaz, Brown, Coburn, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever Loomis, MacArthur, Schmidt, Staub and Thompson—14.

JOHN CAVEN, *Mayor*.

ATTEST:

C. S. BUTTERFIELD, *City Clerk*.