

PROCEEDINGS
OF THE
COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS,
MONDAY, DECEMBER 4TH, 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 Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, and Thompson—15.

Absent—Councilmen, Grosvenor, Seidensticker and Staub—3.

The proceedings of the regular session, held November 27th, 1865, were read and approved.

Mr. Brown presented a communication, or bill, from Andrew Wallace, Esq., for \$8.25 for one keg of spikes, purchased for use of city, by Mr. Kemper, late Street Commissioner, and asked that the same be paid.

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

By Dr. Jameson—Petition :

INDIANAPOLIS, December 2, 1865.

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

GENTLEMEN:—The undersigned respectfully petition your honorable body to so amend the hack ordinance as to allow hackmen the same privileges as that allowed expressmen, as to standing upon the streets of the city.

Your petitioners respectfully represent that the stands assigned the hackmen are such as to be entirely destructive of their business, and that unless said ordinance be amended it must entirely ruin and destroy their business, and they therefore pray your honorable body to amend said ordinance.

Respectfully,

Benjamin Clifton,

L. Doughty,

B. F. Johnson,

J. Miller,

W. Miller,

And 11 others.

Which, on motion, was referred to the Committee on Revision of Ordinances.

By Mr. Loomis—Petition :

INDIANAPOLIS, December 4, 1865.

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

G. C. Krug and Fred. Heit petition to improve sidewalk on east side of Noble street, south of Meek street, 85 feet.

These gentlemen want to gravel 85 feet of sidewalk on the east side of Noble street, south of Meek street, from the corner of Meek, 85 feet south on Noble street, in front of their property. Mr. Krug's lot is No. 9, in Harvey Bates' sub-division of out-lot No. 89, City of Indianapolis, Indiana.

On motion, the prayer of the petitioners was granted, provided the same be done under the direction of the Civil Engineer.

By His Honor, the Mayor—Communication :

INDIANAPOLIS, December 1, 1865.

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

GENTLEMEN:—The Indianapolis Hebrew Congregation, through their Committee on Building, take the pleasure of extending to you, and all the City Officers, an invitation to be present at the ceremonies of laying the Corner Stone of the new Temple to be erected by said Congregation, on Thursday, December 7th, 1865, (Thanksgiving Day,) at 2 o'clock, P. M., and express the hope that you will honor them with your presence.

Place of meeting, Tabernacle, in Court House Square, at 1 o'clock, P. M.

I have the honor to remain, your obedient servant,

J. WECHSLER,

Sec'y Building Committee.

On motion of Dr. W. Clinton Thompson, the invitation was accepted.

By Mr. Lefever—Petition :

INDIANAPOLIS, December 4, 1865.

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

The undersigned respectfully ask your honorable body to grant them the privilege of making a fill at each end of the bridge now being built over the

Canal on Ray street, sufficient to make a convenient approach to the bridge, and the privilege of taking dirt from the higher points of Ray street for the purpose of making the proposed fill.

MCKERNAN & PIERCE,
S. YANDES.

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

By Mr. Loomis—Petition:

INDIANAPOLIS, December 4, 1865.

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

The undersigned, property holders on East street, west side, between Washington and Louisiana streets, desire to present to your honorable body that in their opinion the ordinance for graveling and grading the west side of East street, between the above named points, has not been complied with on that portion of the footway occupied by the Railroads, the tracks remaining, as they were, below the rest of the grade, and neither graveled or planked; we therefore respectfully request you to submit the matter for investigation to a committee, before an estimate is allowed. The design of your petitioners is not to procrastinate payment, but to secure all advantages which the ordinance entitle us to.

Respectfully submitted by

Samuel P. Daniels,
George Youngermon,

T. F. Ostemeyer,
Samuel Love.

Which, on motion, was referred to the City Attorney, to inquire as to the power of Council to require the Central Railroad Company to plank their track full width of street.

Mr. Locmis moved—

That the Street Commissioner be, and is hereby, directed to notify the Peru and Indianapolis Railroad Company, Union Railroad Company and the Bellefontaine and Indianapolis Railroad Company, to build crossings where their tracks cross East street, according to section 3d of the City Charter.

Which motion was adopted.

Mr. Fletcher moved—

That the Street Commissioner be directed to build a wooden culvert at the crossing of Illinois and North streets on the north side of North street; also, one crossing Tennessee street on the north side of Illinois street.

Which motion prevailed.

Mr. Allen moved—

That the Street Commissioner be instructed to build a culvert on Bates street at its intersection with Cady.

Which motion was referred to the Board of Public Improvements.

Mr. Kappes moved—

That the Civil Engineer be, and is hereby, instructed to advertise for the erection of from four to six lamp-posts and fixtures, to be placed at conve-

nient intervals upon the East Market Place, for the accommodation of the market people.

Which motion was referred to the Committee on Markets.

By Mr. Glazier :

Resolved, That the Civil Engineer be, and is hereby, instructed to advertise for sealed proposals to be received by the Common Council, on Monday, December 18th, 1865, for the construction of a foot bridge over Pogue's Run at its crossing with East street.

Which, on motion, was referred to the City Attorney.

By Mr. Schmidt :

Resolved, That the Street Commissioner be instructed to order the parties occupying the premises, to clean out the gutters, and carry away the dirt, on Cumberland street, between Delaware and Alabama streets.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the resolution passed.

By Mr. Lefever :

Resolved, That Thomas Wren, the contractor for grading and graveling Tennessee street and sidewalks, between Garden and McCarty streets be, and is hereby, granted an extension of time for the completion of said contract until the 1st day of July, 1866, provided the bondsmen consent in writing.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the resolution passed.

Mr. Brown moved—

To reconsider the vote adopting the motion offered by Mr. MacArthur at the meeting of the Council held Nov. 27, 1865, directing "that the Street Commissioner repair the bridge across the arm of the Canal on the National Road, so that it will be the full width of the street."

Which motion was adopted.

Mr. Coburn offered as a substitute for Mr. MacArthur's motion, the following :

Motion—That the Street Commissioner be instructed to repair the bridge across the arm of the Canal on the National Road.

Which motion was adopted.

By Mr. Grosvenor :

Resolved, That the Street Commissioner be instructed to make a ditch on Illinois street, between McCarty and Ray streets, that the water accumulating on said street may be taken away.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the resolution passed.

By Mr. Coburn :

Resolved, That the Street Commissioner notify the property owners along the line of the alley running east and west between Pennsylvania and Meridian streets, through Square No. 56, to clean up and cart away the filth and rubbish in said alley, and to prevent the flow of waste water in the alley by the American Express office.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the resolution passed.

His Honor, the Mayor, offered the following resolution :

Resolved, That before this Council can make any contract with the present Gas Company, upon a basis of allowing them a certain per cent. profit upon their capital stock, it will be necessary to ascertain the fair value of such capital stock, and that the same should be appraised by impartial appraisers. Therefore this Council would recommend that six appraisers be appointed, three by this Council and three by the Gas Company, and the six, in case of disagreement, shall select a seventh. and that such appraisers shall first take an oath to well and truly appraise the property, real and personal, used and necessary to the manufacture of gas by said Company, and shall return said appraisal, certified to by them, to this Council; and should said Company agree to the foregoing, they are requested to select their appraisers and notify this Council of the fact, and that the City Clerk notify the Gas Company of the passage of this resolution.

Dr. Jameson moved to lay the resolution on the table, and that the substance be embraced in the ordinance accepting the proposition of the Gas Company, when it shall come up for passage.

The question being on the adoption of Dr. Jameson's motion, the ayes and noes were called for.

Those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Colley, Glazier and Jameson—6.

Those who voted in the negative were Councilmen Coburn, Emerson, Grosvenor, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—11.

So the motion did not prevail.

The question then being on the passage of the resolution, those who voted in the affirmative were Councilmen Allen, Boaz, Coburn, Emerson, Fletcher, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—14.

Those who voted in the negative were Councilmen Brown, Colley and Glazier—3.

So the resolution passed.

Dr. Jameson introduced general ordinance No. 27, entitled:

AN ORDINANCE relating to the issuing of permits by the Market Master,

Which was read the first and second times.

Dr. Jameson 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 Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Rappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the rules were suspended and the ordinance read the third time and placed upon its passage.

The question being shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the ordinance passed.

Mr. Loomis introduced special ordinance No. 84, entitled:

AN ORDINANCE to provide for the grading and graveling of the sidewalk on the west side of East street, between Virginia Avenue and Louisiana street,

Which was read the first and second times, and laid over to have notice of pendency given.

Mr. Grosvenor introduced general ordinance No. 85, entitled:

AN ORDINANCE to provide for the grading and cindering of Illinois street, between the north line of McCarty street and the north line of Ray street,

Which was read the first and second times, and laid over to have notice of pendency given.

Mr. Loomis introduced general ordinance, No. 86, entitled:

AN ORDINANCE to provide for grading and graveling the first alley south of South street, running east and west through out-lot No. 94,

Which was read the first and second times, and laid over to have notice of pendency given.

By Mr. Coburn, from the Board of Public Improvements:

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, December 4, 1865. }

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

GENTLEMEN:—The Board of Public Improvements, to whom the matter was referred, would respectfully report to your honorable body, that a formal demand, prepared by the City Attorney, was served on Mr. Gay, the Agent of the Central Canal Company, to build a new bridge over the Canal at the crossing of St. Clair street. He refused to do it, saying to the Street Commissioner that they would never do it until compelled to do so by the highest Courts in the land. We would recommend that the Street Commissioner proceed to build a new bridge across said street, keeping a careful account of its cost; and the bridge lowered to the grade of the street.

HENRY COBURN, }
W. CLINTON THOMPSON, } Board.

On motion of Mr. Brown, the report was concurred in, and the Board of Public Improvements directed to advertise for sealed proposals for said work.

By Mr. Coburn, from the Board of Public Improvements:

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, December 4, 1865. }

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

GENTLEMEN:—The Board of Public Improvements, would respectfully report to your Honorable Body that the agreement entered into between Mr. Peck, President of the Union Railway Company and the Board, to rebuild and enlarge the bridges crossing Pogue's Run on Delaware and Pennsylvania streets has been completed on the part of the Company by rebuilding and widening the bridge on Delaware to the full width of the street. The Street Commissioner is at work and will complete, in a few days, the bridge on Pennsylvania street in the same manner. We have directed him to notify the Railroad Companies to plank, forthwith, between their tracks the full width of the street and sidewalks on the above named streets.

HENRY COBURN, *President of the Board.*

Which, on motion, was accepted and approved.

By Mr. Coburn, from the Board of Public Improvements :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, December 4, 1865. }

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

GENTLEMEN :—The Board of Public Improvements, to whom the matter was referred, would respectfully report to your honorable body that in relation to the petition of D. Root, John H. Ohr and others, to have the gravel on Pratt street changed from river to bank gravel, we recommend that the City Attorney prepare an ordinance to conform to the prayer of petition.

H. COBURN, }
W. CLINTON THOMPSON, } Board.

Which, on motion, was concurred in, and the City Attorney so instructed.

By Mr. Coburn, from the Board of Public Improvements :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, December 4, 1865. }

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

GENTLEMEN :—The Board of Public Improvements, to whom the matter was referred, would respectfully report to your honorable body that Andrew Wallace be allowed for the bouldering of the alley crossing on Maryland street and that the Committee on Accounts embrace it in their next report. The amount is \$12,75.

HENRY COBURN, }
W. CLINTON THOMPSON, } Board.

Which, on motion, was concurred in.

By Mr. Coburn, from the Board of Public Improvements :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }
Indianapolis, December 4, 1865. }

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

GENTLEMEN :—The Board of Public Improvements would respectfully report to your honorable body that they herewith submit the report of August Richter, the Street Commissioner of the work done, repairing streets, bridges, cleaning gutters, &c,

Also, his financial report, which we find correct, and receipts for each payment which are herewith submitted and filed with the Clerk.

HENRY COBURN, }
W. CLINTON THOMPSON, } Board.

INDIANAPOLIS, November 27, 1865.

Report of the Street Commissioner to the Board of Public Improvements :

GENTLEMEN :—The undersigned, Street Commissioner, begs leave to report as follows :—

- 1, I cleaned the gutters on Pennsylvania street, between North and St Clair streets.
- 2, I cleaned the gutters on St. Joseph, between Pennsylvania and Alabama streets.
- 3, I fitted up the crossing on Massachusetts Avenue and Noble street, with cinders.
- 4, I put a new foot-bridge on Illinois and Ohio streets.

5. I put a new foot-bridge on Illinois and Vermont streets.
6. I put a new foot-bridge on Illinois and Michigan streets.
7. I put a new foot-bridge on Meridian and New York streets.
8. I put four new foot-bridges on Meridian and Vermont streets.
9. I filled the mouth of the alley the full width of the sidewalk with stones and gravel, on Illinois, south-east of North street.
10. I filled the crossing on Michigan and Illinois streets the full width of sidewalk with stones and gravel.
11. I filled the mouth of the alley with stones and gravel south-east of Michigan, on Illinois street.
12. I filled up the crossing on Illinois and Vermont streets with gravel.
13. I filled the mouth of the alley the whole width of sidewalk, with stones and gravel.
14. I put two foot-bridges on Meridian and Michigan streets.
15. I put four foot-bridges on Meridian and St. Clair streets.
16. I put one foot-bridge on Meridian and Ohio streets.
17. I put 4 foot-bridges on Meridian and Pratt.
18. I filled the crossing on Massachusetts Avenue and St. Clair street with cinders.
19. I fitted the crossing of Massachusetts Avenue and Noble street with cinders.
20. I filled the crossing on Massachusetts Avenue and Chatham street with cinders.
21. I hauled 341 yards of dirt into the old gravel-pit on Arch street.
22. I put six foot-bridges on Illinois and St. Clair streets.
23. I put two foot-bridges on New Jersey and Walnut.
24. I put two foot-bridges on New Jersey and New York streets.
25. I put one foot-bridge on New Jersey and Ohio streets.
26. I filled the crossing on Massachusetts Avenue and Walnut street with cinders.
27. I filled the crossing on New York and California streets with cinders.
28. I filled the crossing on Michigan and California streets with cinders.
29. I cleaned the gutters on California, between New York and Michigan streets.
30. I cleaned the gutters on Cedar street, between Virginia Avenue and Huron street.
31. I cleaned the gutters on Meridian, between Ohio and North streets.
32. I filled two crossings on Maryland and Missouri streets with cinders.
33. I put new hand-rails on a bridge on South street, across Pogue's Run.
34. I moved a foot-bridge from Delaware street across Pogue's Run to South street, and filled up.
35. I repaired the bridge on Virginia across Pogue's Run.
36. I filled the crossing on Kentucky Avenue and Missouri street with cinders.
37. I filled the crossing of the alley on Tennessee street, south-west of Washington street.
38. I filled up the mouth of the alley on New Jersey street, south of Market street, with cinders.
39. I put one foot-bridge on New York and West streets.
40. I put two foot-bridges on New York and California streets.
41. I put three foot-bridges on Vermont and Tennessee streets.
42. I built a culvert on Fletcher Avenue and donation line.
43. I filled two crossings on Michigan and Tennessee streets.
44. I put three foot-bridges on East and Michigan streets.
45. I filled two crossings on Tennessee and North streets with cinders.
46. I put two-foot bridges on Missouri and Michigan streets.
47. I put four foot-bridges on Tennessee and Michigan streets.
48. I put two foot-bridges on Noble street and Fletcher Avenue.
29. I gravelled the sidewalk on Fletcher Avenue at the intersection of Noble street.
50. I gravelled the crossing on Noble, at the intersection of South streets.

51. I repaired the bridge on the National Road across the canal.
52. I put one foot-bridge on New Jersey and South streets.
53. I cleaned the gutters on Washington, between Noble and New Jersey streets, and cleaned north east wood market.
54. I built a culvert on Fletcher Avenue, between Cedar and Pine streets.

All of which is respectfully submitted,

AUGUST RICHTER, *Street Commissioner.*

Which, on motion, were received, and accepted and approved.

By Dr. Jameson, from the Finance Committee :

INDIANAPOLIS, November 25, 1865.

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

The Committee on Finance having examined the bi-monthly report of the Treasurer for the period ending Nov. 12, 1865, find the same correct, and would respectfully recommend that the City Clerk be directed to draw warrants in favor of said Treasurer for the amounts paid by him to the several Banks as named in said report, so soon as said Treasurer shall surrender to said Clerk for cancellation the notes of the city, by him paid, and all other papers pertaining thereto.

Your committee would further recommend that the late Treasurer be requested to present any claim for additional services which he may have against the city, and that a competent person be employed for the purpose of settling finally with said late Treasurer.

Respectfully submitted,

P. H. JAMESON, }
C. F. SCHMIDT, } *Committee.*

Which, on motion, was concurred in.

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

INDIANAPOLIS, Dec. 4, 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 T. B. Elliott, C. Vonnegut, and W. H. L. Noble, School Trustees for City of Indianapolis, to vacate an alley running east and west between lots numbered four (4) and five (5) in out-lot numbered sixteen (16) in the City of Indianapolis, report that since the report heretofore made by your Committee the objectors to such vacation have modified their remonstrance, and now give their consent on condition that the School Trustees donate a strip of ground ten (10) feet in width off the south side of lot numbered five (5) in out-lot numbered sixteen (16) for a public alley. This, the Trustees have assured your Committee, they will do. It is, therefore, recommended that the accompanying order of vacation be passed by the Council.

AUSTIN H. BROWN,

Chairman Committee on Streets and Alleys.

PETITION OF T. B. ELLIOTT, C. VONNEGUT AND W. H. L. NOBLE,
SCHOOL TRUSTEES FOR CITY OF INDIANAPOLIS.

ORDER OF VACATION.

Be it remembered, That a petition was duly presented to the Common Council from T. B. Elliott, C. Vonnegut and W. H. L. Noble, School Trustees for City of Indianapolis, asking that an alley running east and west between lots numbered four (4) and five (5) in out-lot numbered sixteen (16) in the

City of Indianapolis, be vacated; that, subsequently, a remonstrance was presented against such vacation, which remonstrance was on the 27th of November, 1865, modified by a petition signed by the remonstrants and presented to the Council, in the following order, to-wit:

INDIANAPOLIS, Nov. 27, 1865.

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

The undersigned, owners of property in the immediate vicinity of the alleys running east and west between lots 4 and 5, in Square 16, in the City of Indianapolis, hereby consent to the vacation of the same on condition that the Trustees of Schools will donate a strip ten feet in width off the south side of lot 5 in said sub-division. If this be done, your honorable body may consider that the remonstrance heretofore presented by us against such vacation is withdrawn.

Ad. Schmidt,	Daniel Schwgell,
Peter Lieber,	Krist Lahmann,
Louis Kolb,	H. E. Buehrig,
Charles Goetz.	Gottlieb Wachtstetter,
James Cummings,	J. C. Vetter,
Michael Koser,	Louis Helle.

Come now the petitioners, and file proof of publication of the required notice which is as follows, to-wit:

STATE OF INDIANA, }
MARION COUNTY, } ss:

Personally appeared before the undersigned, Ansel C. Grooms, book keeper for Holloway, Douglass & Co., publishers of the *Weekly Indiana State Journal*, a newspaper of general circulation, printed and published in the City of Indianapolis, in the county aforesaid, who being duly sworn, upon his oath saith, that the notice of which the attached is a true copy, was duly published in said paper for three (3) weeks successively, the first of which publications was on the 31st day of October, 1865, and the last on the 14th day of November, 1865.

ANSEL C. GROOMS.

Subscribed and sworn to before me this twentieth day of November, 1865.
W. H. L. NOBLE, *Notary Public*.

NOTICE TO VACATE AN ALLEY.—Notice is hereby given that the undersigned have petitioned the Common Council of the City of Indianapolis to vacate an alley running east and west, between lots numbered four (4) and five (5), in out-lot numbered 16, in the City of Indianapolis, Marion county, Indiana, and that said petition will be acted upon at the regular meeting of said Council to be held on Monday, the 20th day of November, 1865, or as soon thereafter as the same can be heard and determined.

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

School Trustees for City of Indianapolis.

Also, proof that notices were duly posted up as required by law, as follows, to-wit:

STATE OF INDIANA, }
MARION COUNTY, } ss:

Personally appeared before the undersigned W. H. L. Noble, who being duly sworn on his oath says, that the notice, or copies thereof, of which the attached is a true copy, was posted up by him in five of the most conspicuous places in the vicinity of the property mentioned therein upon Saturday the 28th day of October, 1865.

W. H. L. NOBLE.

Sworn and subscribed to before me the 4th day of December, 1865.

HORACE H. BASSETT, *Notary Public*.

NOTICE TO VACATE AN ALLEY.—Notice is hereby given that the undersigned have petitioned the Common Council of the City of Indianapolis to vacate an Alley running east and west, between lots numbered (4) four and (5) five, in out-lot numbered (16) sixteen, in the City of Indianapolis, Marion county, Indiana, and that said petition will be acted upon at the regular meeting of said Council to be held on Monday, the 20th day of November, 1865, or as soon thereafter as the same can be heard and determined.

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

School Trustees of City of Indianapolis.

Now, therefore, there being no objection to the vacation of said described alley, provided that the Trustees of the City Schools donate, for a public alley, a strip of ground ten (10) feet in width running the full length of lot five (5) in out-lot sixteen (16) and off the south end of said lot, it is hereby ordered that the alley running east and west between lots numbered four (4) and five (5) in out-lot numbered sixteen (16) of the City of Indianapolis, be and the same is hereby declared vacated, upon the express condition that the School Trustees shall by deed of conveyance grant and convey to the City of Indianapolis for a public alley, a strip of ground ten (10) feet in width off the south side of lot numbered five (5) of out-lot numbered sixteen (16) and the full length of said lot; and, until the execution and recording upon the record, of deeds of Marion county of such deed of conveyance this order of vacation shall have no force and effect, but when so executed and recorded this order shall be considered as having full force and effect.

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

INDIANAPOLIS, Dec. 4, 1865.

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

The Committee on Streets and Alleys, to whom has been referred the petition of Joseph Myers and others, report that the prayer of such petition ought to be granted, and, therefore, recommend that an ordinance be passed to grade and cinder Illinois street, between the north line of McCarty street and the north line of Ray street.

AUSTIN H. BROWN,
Chairman Committee on Streets and Alleys.

Which, on motion, was concurred in.

By Mr. Emerson, from Committee on Bridges :

INDIANAPOLIS, December 4, 1865.

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

GENTLEMEN:—Your Committee on Bridges beg leave to call the attention of the Council once more to the condition of the bridges within the corporate limits, and especially those upon Market, New York and Ohio streets, and also North street. Those bridges have become exceedingly dangerous, and must be either rebuilt and recovered, or fence up the streets, in order to save the life and property of our citizens.

All of which is respectfully submitted.

R. B. EMERSON, }
WM. BOAZ, } *Committee.*
J. STAUB, }

Which, on motion, was concurred in.

By Mr. Emerson, from Committee on Public Buildings:

INDIANAPOLIS, December 27, 1865.

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

GENTLEMEN:—Your Committee on the House of Refuge beg leave to report that the covering which was put upon the walls of the House of Refuge last Fall, has been mostly removed by the stone masons in finishing up their contract, and have also used and broken up a portion of the lumber; your Committee would recommend that the walls be re-covered immediately, in order to protect the walls from rain and snow.

All of which is respectfully submitted.

R. B. EMERSON,
Chairman of Committee.

Which, on motion, was concurred in.

Dr. Jameson presented the plans of the House of Refuge, drawn by the late JAMES ALBON, Architect.

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

From the City Attorney—Report:

INDIANAPOLIS, December 4, 1865.

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

GENTLEMEN:—I respectfully submit the following opinion respecting the ordinance creating a Board of Sanitary Commissioners, introduced by Mr. Brown.

The Common Council have the power to establish a Board of Sanitary Commissioners, as proposed by the ordinance, but not to confer upon such a Board the powers contemplated by the ordinance.

The charter expressly confers upon the Common Council the power of appointing officers, who are not required to be elected by popular vote. The language of the charter is as follows: "The Common Council shall appoint * * * all officers which the by-laws may create or require." (Vide Charter, see. 30.) The charter thus expressly delegates the appointing power to Council, and the Common Council can not re-delegate the power. The Common Council is the agent of the municipality, possessing certain delegated powers. (Grant on Corporations, 356; Johnson vs. City of Indianapolis, 16th Ind., 227; Lowber vs. Mayor, 5 Abbott's Pr., Reports, 325.) As agent the Council is invested with certain powers, which can not be delegated. The rule is, by the books, thus expressed: "A delegated authority can not be re-delegated." (Brown's Legal Maxims, 665. Story's Agency, ss. 13 and 14.) Judge Story, in illustration of the rule, cites the following case: "Where by statute a corporation was authorized to lay assessments on its members, it was considered that this power could not be delegated to the Directors." (Winsor & Parte, 3 Story, R. 411.) The portion of the ordinance which proposes to confer upon the Board power to appoint Health Officers, and invest them with police powers, can not be legally enacted or enforced.

The Common Council is clothed with power to enact and enforce the observance of by-laws, the charter providing that the Common Council may enforce the observance of by-laws and ordinances by enacting penalties not exceeding fifty dollars. All rules and regulations for the government of the inhabitants of the municipality are embraced by the term by-law. The power to pass by-laws and ordinances is expressly conferred upon the Common Council, and can be exercised by no other body. The person attempting to execute by-laws passed by any other body would be liable to be prosecuted for false imprisonment. Such by-laws as the Council desire enacted must be enacted by the Council itself. So much of the ordinance as proposes to confer upon the Board power to pass rules and regulations, except for their own government, the Council can not legally enact.

The object of the ordinance so far as the appointment of Health officers by the Board is concerned may be attained in a different method from that proposed by the Board. The Board might be authorized to nominate the Health officers to Council, and upon such nomination the Council could elect.

The only means by which effective sanitary measures can be put in operation is by the enactment, by Council, of ordinances defining the acts intended to be prohibited and punishing the commission of prohibited acts by proper penalties. All proceedings of a penal character are closely scrutinized by Courts and the power to enact the by-law, as well as the by-law itself, is strictly construed. For this reason it is necessary that the power to enact the by-law should be plain and the by-law clear and explicit.

The provisions of the ordinance concerning the cleaning of streets, contracts and Health Districts can be legally enacted and enforced.

Respectfully,

B. K. ELLIOTT, *City Attorney.*

Which, on motion, was received and referred to the Board of Health.

Mr. Kappes called up special ordinance, No. 81, entitled:

AN ORDINANCE to provide for the paving of the south sidewalk of Washington street, between Alabama and New Jersey streets,

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

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17. Noes, none.

So the ordinance passed.

Mr. Boaz moved to adjourn.

Not carried, by the following vote, to-wit:

AYES—Messrs. Allen, Boaz, Emerson, Glazier, Lefever and Staub—6.

NOES—Messrs. Brown, Coburn, Fletcher, Grosvenor, Jameson, Kappes, Loomis, MacArthur, Schmidt and Thompson—10.

Mr. MacArthur moved—

That the Street Commissioner be instructed to fence up North street bridge, as it is now very dangerous after dark.

Which motion was adopted.

Dr. Jameson moved—

That the Clerk be instructed to re-mail the ordinance granting the right of way to the C. I. & D. railroad, to the proper officer, for correction.

Which motion prevailed.

On motion of Mr. Brown, the Council adjourned to meet on Tuesday, the 5th December, at 7 o'clock, P. M., in special session.

Present at roll-call on adjournment: Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Fletcher, Glazier, Grosvenor, Jameson, Kappes, Lefever, Loomis, MacArthur, Schmidt, Staub and Thompson—17.

JOHN CAVEN, *Mayor.*

ATTEST:

C. S. BUTTERFIELD, *City Clerk.*