

PROCEEDINGS
OF THE
COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS,
Monday, Dec. 9, 1872, 7 o'clock, P. M. }

The Common Council met in regular session.

Present—His Honor the Mayor, Daniel Macauley, in the chair
and the following members :

Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn,
Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles
and Woodburn—14.

Absent—Councilmen Cottrell, Gibson, Hardesty, and Reagan
—4.

The proceedings of the regular session, held December 2nd,
1872, were read and approved.

Sealed proposals were opened, read and referred to the Committee on Contracts.

Mr. Sherwood, from the Committee on Contracts, made the following report:

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—Your Committee on Contracts, would report the following proposals for grading and graveling the first alley east of East street, running from South street to the first alley north of South street, to-wit:

Samuel Lefever, for 25 cents per front foot on each side.

James Mahoney, for 34 cents per front foot on each side.

Samuel Lefever being the lowest and best bidder we would recommend that he be awarded the contract.

Respectfully submitted,

L. Q. SHERWOOD,
ISAAC THALMAN,
H. S. BIGHAM,
Committee on Contracts.

Which was concurred in.

REPORTS FROM CITY OFFICERS.

The City Civil Engineer made the following report:

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—I hereby report the following work finished according to contract:

John Greene, for grading the first alley east of East street, running from Merrill street to the first alley north of Merrill street:

Length on east side..... 245 ft.

Length on west side..... 245 ft.

Total length 490 ft.

At 35 cents per lineal foot..... \$171 50

Also, Henry C. Roney, for grading and paving the south sidewalk on Vermont street from Pennsylvania to East street:

Length of pavement 1446 feet, at 64 cents per lineal foot..... \$925 44

Also, Patterson & Dunning, for grading and paving the south sidewalk on St. Joe street from Pennsylvania to New Jersey street:

Length of pavement 1161 8 feet, at 47 cents per lineal foot..... \$545 98

Also, D. Root & Co., for erecting lamp-posts and fixtures on certain streets :

On Malott avenue, between Massachusetts avenue and Columbia street, 3 corner posts at \$33 50 per post.....	\$100 50
5 intermediate posts at \$32.00 per post.....	160 00
On Bellefontaine street on southeast corner of first alley south of Christian avenue, 1 intermediate post.....	32 00
Total estimate.....	\$292 50

Also, same, for erecting lamp-posts, lamps and fixtures on Delaware street, between St. Marys and Second streets :

1 corner post at \$31.50.....	\$31 50
5 intermediates at \$30.50 per post.....	152 50
Total estimate.....	\$184 00

Respectfully submitted,

R. M. PATTERSON, Civil Engineer.

Which was concurred in.

Also, the following report :

GENTLEMEN:—I herein report to John Greene an estimate for grading and graveling Ray street and sidewalks from Meridian to Delaware street, according to the following written contract, signed by all the property owners except two:

INDIANAPOLIS, Nov. 1, 1872.

We, the undersigned, property owners on Ray street, between Meridian and Delaware streets, agree to receive scraped river gravel in place of screened gravel, the contractor to make the gravel in the center of the street eighteen feet wide instead of fifteen.

Length on north side.....	1026 ft. 3 in.
Length on south side.....	1040 ft. 2 in.
Total length....	2066 ft. 5 in.
At 77 cents per lineal foot.....	\$1,591 20

Respectfully submitted,

R. M. PATTERSON, Civil Engineer.

Which was concurred in.

The City Clerk also submitted the following report:

OFFICE OF CITY CLERK,
INDIANAPOLIS, December 9, 1872. }

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

GENTLEMEN:—The City Clerk would respectfully report for your approval the following estimates:

FIRST.

First and final estimate in favor of John Greene for grading the first alley east of East street, running from Merrill street to the first alley north of Merrill street.

SECOND.

First and final estimate in favor of Henry C. Roney for grading and paving with brick the south sidewalk of Vermont street, between Pennsylvania and East streets.

THIRD.

First and final estimate in favor of Patterson & Dunning for grading and paving with brick the south sidewalk of St. Joseph street, between Pennsylvania and New Jersey streets.

FOURTH.

First and final estimate in favor of D. Root & Co., for erecting lamp-posts, lamps and fixtures, as follows:

- On Malotte avenue, from Massachusetts avenue to Columbia street;
- One lamp-post on the southeast corner of Bellefontaine street and the first alley south of Christian avenue;
- On Delaware street, between St. Marys and Second streets.

FIFTH.

First and final estimate in favor of John Greene for grading and graveling Ray street and sidewalks, between Meridian and Delaware streets.

Respectfully submitted.

JOHN R. CLINTON, City Clerk.

Which was concurred in.

Also, the following resolution:

Resolved, That the foregoing first and final estimate of John Greene, for grading the first alley east of East street, running from Merrill street to the

first alley north of Merrill street, 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.

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—14.

Negative—None.

Also, the following resolution :

Resolved, That the foregoing first and final estimate of Henry C. Roney for grading and paving with bricks the south sidewalk of Vermont street, between Pennsylvania and East 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.

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—14.

Negative—None.

Also, the following resolution :

Resolved, That the foregoing first and final estimate of Patterson & Dunning, for grading and paving with bricks the south sidewalk of St. Joseph street, between Pennsylvania and New Jersey 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.

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—14.

Negative—None.

Also, the following resolution :

Resolved, That the foregoing first and final estimates of D. Root & Co., for erecting lamp posts, lamps and fixtures, as follows: on Malott avenue, from Massachusetts avenue to Columbia street; one lamp post on the south-east corner of Bellefontaine street and the first alley south of Christian avenue; on Delaware street, between St. Marys and Second streets, be and the same are hereby adopted as the estimates of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—14.

Negative—None.

Also, the following resolution :

Resolved, That the foregoing first and final estimate of John Greene, for grading and graveling Ray street and sidewalks between Meridian and Delaware 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 names.

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—14.

Negative—None.

The City Clerk made the following report :

OFFICE OF CITY CLERK, }
INDIANAPOLIS, Dec. 9, 1872. }

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

GENTLEMEN:—The City Clerk would respectfully report that there is on file in his office an affidavit for the collection of street assessment by precept as follows :

Henry C. Roney vs. N. J. and E. L. Lowman, for \$84 56 $\frac{3}{4}$.

And would respectfully recommend that you order the precept to issue.

Respectfully Submitted,

JOHN R. CLINTON, City Clerk.

Which was concurred in and precept ordered to issue.

The Street Commissioner made the following report:

INDIANAPOLIS, Dec. 2, 1872.

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

GENTLEMEN:—About one year ago your honorable body entered into a contract with D. Root & Co. for iron gutter crossings at three and one-fourth cents per pound. I am now in receipt of a communication giving notice that hereafter the price will be three and three-fourth cents per pound. I would respectfully refer the matter to your honorable body for instructions.

Most Respectfully,

A. BRUNER, Street Commissioner.

Which, on motion, was referred back to the Street Commissioner, with instructions to report to Council when said contract expires.

The Board of Health made the following report:

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—The Board of Health submits the following mortality report for the week ending Dec. 9, 1872:

Under 1 year.....	4
From 1 to 2 years	1
From 2 and 5 years	1
From 5 to 10 years.....	0
From 10 to 15 years.....	0
From 15 to 20 years.....	0
From 20 to 25 years.....	0
From 25 to 30 years.....	0
From 30 to 40 years..	1
From 40 to 50 years..	1
From 50 to 60 years....	1
From 60 to 70 years.....	0

From 70 to 80 years	1
From 80 to 90 years	0
From 90 to 100 years	0
100 and upwards	0
Unknown	1
Total	<hr/> 11

Respectfully submitted,

J. A. COMINGOR, M. D., Pres't.

W. WANDS, M. D., Secretary.

Which was received.

The City Marshal made the following report :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—I have notified the City Commissioners and property owners in the matter of extending and opening Locke street from Indiana avenue to Elizabeth street, to meet at the City Clerk's office, December 30, 1872, at 9 o'clock A. M., as per return to the City Clerk.

Respectfully,

THOMAS D. AMOS, City Marshal.

Which was received.

The City Solicitor made the following report :

INDIANAPOLIS, Nov. 25, 1872.

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

GENTLEMEN:—I have examined the matter of the vacation of streets and alleys in Drake's addition to the City of Indianapolis, and respectfully submit the following opinion.

In April, 1852, James P. Drake laid out an addition to the City of Indianapolis, and recorded a plat, on which are shown divers streets and alleys.

The making and recording of this plat was a dedication to the public of the streets and alleys therein described. The sale of any lots in the addition with reference to such plat would render the dedication irrevocable.—Dillon Municipal Corporations, 487. Indeed, the law is that one purchasing lots sold with reference to such plats, has a right to require that all streets remain public which were marked on the plat. (Bowen v. Portland, 8 B Monr. 232; Winona v. Huff, 11 Minn. 119; Huber v. Gazey, 18 Ohio 18, 2 Smith Leading Cases, 181; Logansport v. Dunn, 8 Ind. 378).

The only act (and it may well be doubted whether that applies to additions made to cities) upon the subject of vacating streets and alleys in additions laid out to cities, is that found on page 632 of 1 Revised Statutes. That act provides that vacations shall be made only upon petition and notice. The act requires the petition to "give a distinct description of the property to be vacated, and the name of the persons to be effected thereby." The authorities cited show that all persons buying lots in the addition, have a right to insist that all streets and alleys marked on the plat be kept open, and all such persons are therefore affected by the vacation.

The act also provides that petition shall be filed with the County Auditor thirty days prior to the setting of the board, and notice of the pendency of said petition shall be given for the same space of time." The language of the statute, it will be observed, is somewhat obscure. It provides that the petition shall be filed thirty days before the sitting of the board, and that notice shall be given for the same space of time. A literal construction of this statute would require publication for each of the thirty judicial days, but I think it may be held to mean once for each week contained in that period of thirty days, and certainly this is as liberal a construction as a party asking a vacation could insist upon. If the case of Shipley v. Mitchell, reported in 7th Blackford, be applicable, and I think it is, the publication must be complete full thirty days prior to the sitting of the commissioners. In the case cited the statute provided that the publication should be made thirty days before the first day of the term, and it was held, that all the publications required must have been fully made at least thirty days before the first day of the term. If this be the correct interpretation, then there must be sixty days notice, for the publication must be complete thirty days before the commencement of the session, and the publication itself must be for the space of thirty days. In any event the law cannot be held to have been complied with when but one publication is made.

The person through whose land the street may run, cannot, I think, be regarded as the only person interested, or rather affected, by the vacation. Such a construction would lead to the absurdity of requiring a man to give himself notice. Not only this, but the land occupied by the street reverts to the interested party, and he is thus securing for himself property, and giving notice only to himself. It is evident the legislature intended no such thing as this. Another section of the statute provides that where all the lots are owned by one person, he may vacate upon notice; so if notice be required in such a case, the plain inference is that parties who have bought lots are affected by vacation, because two distinct classes of cases are provided for.

The proceedings in the cases where vacations have been made, in Drake's addition, the publications, or petitions, or both are defective. In one of the cases, Third street, the proceedings were had at a special session of the commissioners. The law providing for special sessions requires but six days notice, and certainly a law requiring thirty days notice cannot be held to mean

thirty days before a session which can be called upon six day's notice. It means, evidently, thirty days before a regular session. The proceedings at the special session were therefore void.

There are a great many vexatious questions in this matter, but I think it unnecessary to report upon them, for I am of the opinion that because of the radical defects in the petitions and notices, that the proceedings for vacation are invalid, and that the streets and alleys attempted to be vacated, have not lost their character as such.

Respectfully,

B. K. ELLIOTT.

Which was concurred in.

By consent, Mr. Rush offered the following resolution:

WHEREAS, It has been charged that there has been some neglect and mismanagement in the affairs of the City Hospital; and whereas, it is due both to the officers thereof and to the public that the matter be fully investigated: Therefore,

Resolved, That a Special Committee of three be appointed to investigate said matter, and that said committee be instructed to examine witnesses and fully report to this Council upon and concerning the said matter.

Which was adopted by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—14.

Negative—None.

His Honor appointed as such committee Councilmen Rush, Whitsit and Sherwood, and the City Solicitor.

Dr. Woodburn presented the following:

INDIANAPOLIS, Dec. 9, 1872.

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

The undersigned, Board of Trustees of City Hospital, would respectfully report:

They have carefully investigated the circumstances of a case brought to the notice of this Council by one of its members at its last meeting, of a patient who had been admitted to the City Hospital on Sunday, Nov. 24th, by the name of Henry Wishmeyer.

We took the statement of said patient in full, and entirely without any interference, and in the absence of both the medical officers of the Hospital,

which statement was corroborated by the nurse and other attendants, and other patients in the ward who were questioned.

We herewith submit Mr. Wishmeyer's statement, taken by the Board:

"Henry Wishmeyer was brought to the Hospital Sunday evening, November 24, 1872, 3 o'clock, P. M.; has no recollection how he got into the house. The first he remembers was some one taking off his coat, he being put into bed. Said on Sunday night either Dr. Godfrey or Marsee gave him medicine, he could not say which. On Monday, at the usual time of going round the wards, saw Dr. Marsee, who looked at his leg, but did not take off the fracture box which was on when he came. At the time of his admission *no colored man was about him* so far as he can remember, nor was there any such person in attendance upon him at any time afterward. The attendants about the wards gave him water and food, and waited upon him as well as he could desire. He asked on Sunday evening if any of the Doctors were here, and was told that he would be seen when they came. On Tuesday at the hour of going around the wards, the Surgeons removed the dressings and put on others, after which his limb felt better.

"He had nothing to complain of after dressing was changed on Tuesday. On Saturday his leg was dressed as it now is, with a plaster-paris bandage, by Dr. Comingor.

Signed,

HENRY WISHMEYER."

The above statement was substantially confirmed by Dr. Godfrey, who says he took charge of him on and after his admission; saw him at eight o'clock and about midnight of the evening of his admission.

On Saturday, one week after the accident, as soon as they thought it was advisable to put on a permanent dressing, Dr. Todd, President of the Board, was present and examined the fracture. He found it well dressed and in every way in good condition. Fracture is now doing well, and the patient is satisfied with his treatment.

R. N. TODD, Pres't Board Trustees.

P. H. JAMISON,

T. PARVIN.

Which, on motion was referred to the committee above referred to.

By unanimous consent, Messrs. Batty and Sherwood recorded their votes in favor of the donation made by the Council in aid of the poor and suffering of the city.

By consent, Mr. Sherwood, from the Committee on Railroads, made the following report:

INDIANAPOLIS, Dec. 2, 1872.

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

The following motion passed the Council on Monday evening last:

"That the Committee on Railroads, without delay, investigate and act upon the question of prevailing upon, or inducing the different railroads entering Indianapolis to bring wood for fuel into the city, owing to the prevalence of the horse disease, the same to be sold, or otherwise distributed at reasonable rates."

The Committee beg leave to report, that they have not yet been able to get railroads to bring fuel for sale, but have accomplished the following:

They had an interview with Major J. E. Simpson, Superintendent of the Terre Haute and Vandalia Railroad. He said they were bringing wood off of the other railroads for their own use, but if he could do anything for coal he would be happy to do so. He has agreed to haul and deliver on track, at any point in Indianapolis, ten car loads of coal, free, from the mines. Mr. E. J. Hardesty has agreed to take charge of the coal on arrival, the city to pay for unloading.

Maj. Simpson says he will assist us all in his power. We also saw Mr. C. C. Gale, Division Superintendent of the C. C. C. & I. Railroad or Bee Line, who with great generosity and promptness notified the Committee that they would furnish for the poor of Indianapolis up to a 1,000 cords of wood, from their own winter fuel, at \$4.00 per cord, delivered on the ground in Indianapolis. The wood was for the poor; they had none for sale to any other parties, understanding the wood was to be given away for the poor. The Committee engaged 400 cords, and he at once commenced delivering the wood, taking an engine and cars, and the men from their own work. The Committee have arranged with the County Commissioners to take the 400 cords of wood and pay for it. The County Commissioners putting the wood in hands of Mr. Chas. Johns, Township Trustee, for distribution to the poor. The County Commissioners have authorized the Committee to buy six car loads of coal, at \$2 50 per ton at the mines, providing said Committee could get it hauled free. Said Committee have made arrangements with Col. W. H. Ashley, of Brazil, to get said coal at above price, if wanted, Major Simpson hauling same free, which is to be included in the ten cars.

The Committee have seen the following persons who agree to donate to the poor of the city:

Col. W. H. Ashley, of Brazil....	1 car load of coal.
Capt. W. H. Morris, of Brazil	1 " " "
Messrs. Faulkner & Connelly, City.....	1 " " "
Messrs. Butch, Dixon & Dell, City	1 " " "
Messrs. Niblock, Merrifield & Co., City.....	5 tons of coal.
Gas Company, City.....	500 bushels Cannell coke or fuel.

The above to be placed in the hands of Mr. Chas. Johns, Township Trustee, for distribution to the poor. The parties gave with promptness. The County Commissioners acted promptly and generously in the matter.

Your Committee called upon Chief Thompson to detail police to watch the wood at night, we agreeing to pay Mr. Johns for a day man, in accordance with the arrangement with County Commissioners.

Mr. Gale telegraphed Mr. E. S. Flint, Superintendent of C. C. C. & I. Railroad, and he responded at once to assist the poor of Indianapolis all in their power.

L. Q. SHERWOOD,
E. J. HARDESTY,
ROBERT KENNINGTON,
Committee.

Which was approved.

Also, the following :

INDIANAPOLIS, Dec. 9, 1872.

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

The Committee saw Mr. Gale this afternoon. He said the C. C. C. & I. R. would furnish 500 cords of wood, delivered at Indianapolis at \$4.00 per cord, for the "poor that are able to purchase the same," the Council paying for same any time up to January 15, 1873, but only for the deserving poor.

L. Q. SHERWOOD,
E. J. HARDESTY,
ROBERT KENNINGTON,
Com. on Railroads.

Which was received.

Mr. Sherwood offered the following motion :

Moved, That the Council vote their thanks to the following persons for their kindness in assisting the poor of the city :

E. S. Flint, Sup't of C. C. C. & I. Railroad.
C. C. Gale, Division Sup't of C. C. C. & I. Railroad.
Maj. J. E. Simpson, of T. H. & V. Railroad.
Col. W. H. Ashley, of Brazil.
Capt. W. H. Morris, of Brazil.
Messrs. Fawcner & Connelly, City.
Messrs. Butsch, Dickson & Dell.
Messrs. Niblock, Merrifield & Co., City.
Gas Company, City.
County Commissioners.

Which was unanimously adopted.

Mr. Pressly offered the following resolution :

Resolved, That the thanks of this Council be tendered to the members of the Railroad Committee for the earnest and efficient services rendered by them in securing for the poor of the city supplies of fuel, and that to them is due the success of the plan to furnish the poor with fuel,

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Pressly, Rush, Thalman, Whitsit, Wiles and Woodburn—11.

Negative—Councilman Kahn—1.

Mr. Pressly offered the following motion :

Moved, That the report of the Railroad Committee be spread upon the minutes and printed in the Daily Journal and Sentinel.

Which was adopted.

Dr. Woodburn, from the Committee on Benevolence, made the following report :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—Your Committee on Benevolence and Special Committee, who were directed to expend the one thousand dollars appropriated for the benefit of the suffering and needy, have placed the same into the hands of the Indianapolis Benevolent Society for distribution, from the fact that we believe the said Society will distribute the same to relieve more suffering than we could, from their knowledge who are in actual need and who are not, we therefore ask your honorable body to concur in our action in so doing.

Respectfully submitted,

J. H. WOODBURN,

F. P. RUSH,

Com. on Benevolence.

W. H. CRAFT,

C. E. WHITSIT,

Special Committee.

Which was concurred in.

Mr. Batty presented the following petition :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN :—The undersigned, owners of the real estate fronting on College avenue, between Forest Home avenue and Tinker street, respectfully petition your honorable body to pass an ordinance providing for the lighting with gas College avenue, between Forest Home avenue and Tinker street.

And your petitioners will ever pray, &c.

John M. Bramwell, J. M. Tilford, James McVay, Jos. Moyer, and 9 others.

Which was received.

Mr. Batty introduced special ordinance No. 197, 1872, entitled :

An ordinance to provide for the erection of lamp-posts, lamps and fixtures complete to burn gas, except the service pipe, on College avenue, between Home avenue and Tinker street.

Which was read the first time.

Mr. Wiles introduced general ordinance No. 73, 1872, entitled :

An ordinance providing for the issuing of ten per cent. warrants.

Which was read the first time.

By unanimous consent the rules were suspended for the purpose of reading the second and third times and passing the above entitled ordinance.

General ordinance No. 73, 1872, entitled :

An ordinance to provide for the issuing of ten per cent. warrants.

Which was read the second and third times and passed by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Kahn,

Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—12.

Negative—Councilman Kennington—1.

ROLL CALL.

Mr. Batty offered the following motion :

Moved, That the City Marshal suspend removing fences on Meridian street as ordered by this Council, until further orders.

Which was adopted.

Mr. Kennington offered the following motion :

Moved, That in view of the fact that the City Council had no authority to relieve the Citizens Street Railway Company from taxation, and that the City Treasurer make a Treasurer's assessment against the said Company for the years they have paid no taxes, and that the City Assessor place the property belonging to said Company on the tax duplicate of 1872 for taxation.

Which was referred to a Special Committee consisting of Councilmen Kennington, Craft and Pressly and the City Solicitor.

On motion by Mr. Kennington, the City Civil Engineer and Sewer Engineer were instructed to report to Council what disposition can be made of the stairway on Illinois street at the mouth of the tunnel.

Mr. Pressly offered the following motion :

Moved, That the City Marshal be instructed to notify the proprietors of a goose pond, on the corner of Washington and Noble streets, to remove the nuisance immediately, and if not done within three days to take legal steps for its abatement.

Which was adopted.

Mr. Thalman, from the Committee on Streets and Alleys, made the following report :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN :—Your Committee on Streets and Alleys, to whom was referred a remonstrance concerning the improvement of High street, between McCarty street and the first alley south of Bicking street, report as follows :

We have examined the matter, and from inspection, and the statements of the City Engineer, are satisfied that the contractor has complied with all the requirements and specifications in the advertisement, and in his contract and bond. The work in our opinion has been better done than the contract demands. We, therefore, recommend that the estimate be made and allowed.

Respectfully submitted,

ISAAC THALMAN,
JOHN T. PRESSLY,
C. E. WHITSIT,
Com. on Sts. and Alleys.

Which was concurred in.

Mr. Thalman offered the following :

INDIANAPOLIS, Nov. 25, 1872.

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

GENTLEMEN :—The Committee on Streets and Alleys, to whom was referred the petition of James Frank and Thos. F. Ryan, asking for the vacation of a triangular shaped tract in Madison avenue, lying west of the west line of out-lot 108, north of the donation line, and east of the present east line of the Indianapolis and Southport gravel road—if said east line of said road be extended in a direct line northwardly until it intersects the west line of out-lot 108—said tract so asked to be vacated being represented on the plat accompanying said petition, have examined into the matter, and beg leave to report.

We find the petition, notices, publications, proofs and other proceedings in the matter regular in form and sufficient in law. We find that the petitioners are the owners of the lots directly abutting on the portion of Madison avenue proposed to be vacated, and that no remonstrances have been made or filed against said vacation. We have examined the plat and the ground affected by said vacation, and believe that it will decidedly benefit the street by straightening and beautifying the same.

We therefore recommend that the prayer of said petitioners be granted

and that said triangular tract in Madison avenue, as described in said petition and figured in said plat, be vacated, and to that end we report the following "Order of Vacation" therein for the action of the Council:

ISAAC THALMAN,
JOHN T. PRESSLY,
C. E. WHITSIT.

Committee on Streets and Alleys.

ORDER OF VACATION.

Whereas, at a meeting of the Common Council of the city of Indianapolis, held at their Council Chamber in said city, on the 14th day of October, 1872, Mr. Thomas Cottrell, a representative from the Seventh Ward, presented the following petition, to-wit:

INDIANAPOLIS, Oct. 14, 1872.

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

GENTLEMEN:—The undersigned petitioners respectfully state, that they own in fee about three and one-half acres of ground in the southwest corner of out-lot 108, and about three and one-half acres in the northwest corner of the east half of the northwest quarter of section 13, township 15, north of range 3, east.

They further show that Madison avenue, 80 feet wide, runs south-easterly along the west line of out-lot 108 to the donation line of the city of Indianapolis, and that from the point on said donation line at the ending of said avenue, the Indianapolis and Southport Gravel Road, 60 feet in width, runs in a due south direction.

They further state that by the present location of said avenue and said road, the middle point on the donation line of said avenue and said road is not the same, and that the east line of said avenue and said road on said donation line, are separated by an interval of about twenty-seven feet. They further state and show that this difference causes a projection in the line of said street, and injures the view along the same, and that it would be beneficial to the street and to your petitioners' property to vacate a small portion of said avenue, so that the east line of said Indianapolis and Southport Gravel Road should be extended northerly till it strikes the east line of said Madison avenue on the west line of out-lot 108.

For the further information of your honorable body in the premises, your petitioners have had a survey made of the junction of said avenue and road, and submit herewith a plat of the same by the County Surveyor.

For the purpose of straightening said east line of said avenue, and conforming the same to the east line of said road, as shown in the accompanying plat, your petitioners respectfully ask your honorable body to order the vacation of that portion of Madison avenue lying between the west line of out-lot 108, the donation line, and the east line of the Indianapolis and Southport Gravel Road, if the same be directly extended northward to the west line of out-lot 108.

Your petitioners say their property before mentioned is the only real estate directly abutting on the part of said avenue now asked to be vacated; that no injury will be done to any other real estate or property owner; and that said vacation will benefit the property of petitioners and beautify said street. Wherefore, your petitioners ask for the vacation of said portion of said avenue, and that when so vacated said portion be adjudged and ordered to be the property of your petitioners, and they will ever pray, etc.

JAMES FRANK,
THOS. F. RYAN.

Which was referred to the Committee on Streets and Alleys and Civil Engineer for investigation.

And whereas notice of the pendency of the foregoing petition, and of the time for the action of the Common Council thereon, was duly given, which notice and proof of publication thereof were duly filed in the office of the City Clerk on the 25th day of November, 1872, in the words and figures following, to-wit:

NOTICE OF VACATION.—Notice is hereby given that a petition is now pending before the Common Council of the city of Indianapolis, asking the vacation of that portion of Madison avenue, in Indianapolis, lying between the west line of out-lot 108, the donation line, and the east line of the Indianapolis and Southport Gravel Road, if the same be directly extended northerly to the west line of out-lot 108. Said petition will be heard, and the matters contained therein finally determined, at the meeting of the said Common Council to held on the 25th day of November, 1872, or at some subsequent meeting.

JOHN R. CLINTON, City Clerk.

STATE OF INDIANA, }
Marion County. } SS:

Personally appeared before the undersigned John Fishback, President of Indianapolis Sentinel Company of the Indiana State Sentinel, a public Weekly newspaper of general circulation, printed and published in 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 four weeks successively, the first of which publications was on the 29th day of October, 1872, and the last on the 19th of November, 1872.

JOHN FISHBACK, Pres't Ind'polis Sentinel Co.

Subscribed and sworn to before me this 22d day of November, 1872.

[SEAL.]

W. C. MORIARTY, Notary Public.

And whereas said notice, as by law required, was duly posted along the line of that portion of said avenue proposed to be so vacated, which notice, and proof of the posting thereof as aforesaid, were duly filed in the office of

the City Clerk on the 25th day of November, 1872, in the words and figures following, to-wit:

NOTICE OF VACATION.—Notice is hereby given that a petition is now pending before the Common Council of the city of Indianapolis, asking the vacation of that portion of Madison avenue, in Indianapolis, lying between the west line of out-lot 108, the donation line, and the east line of the Indianapolis and Southport gravel road, if the same be directly extended northerly to the west line of out-lot 108. Said petition will be heard, and the matters contained therein finally determined, at the meeting of the said Common Council to be held on the 25th day of November, 1872, or at some subsequent meeting.

JOHN R. CLINTON, City Clerk.

STATE OF INDIANA, }
Marion County, } SS:

Before me, W. W. Woollen, Jr., a Notary Public in and for said State and county, personally came Frederick W. Winter, of lawful age, who being first duly sworn, on oath says, that on the 1st day of November, 1872, he posted up in three conspicuous places along the line of that portion of Madison avenue, which is proposed to be vacated as stated in said notice, written copies of the notice of which the above and foregoing notice hereto attached is a true copy. and further saith not.

FREDRICK W. WINTER.

Sworn to and subscribed before me this 20th day of November, 1872, as witness my hand and seal.

W. W. WOOLLEN, Not. Public.

And whereas, the "consent in writing" to the vacation of the part of Madison avenue as aforesaid, by the owners of all the lots along the line of the part proposed to be so vacated, the said "consent in writing" being duly acknowledged by said owners, was duly filed in the office of the City Clerk on the 25th day of November, 1872, which "consent in writing" and the acknowledgment thereof are in the words and figures following, to-wit:

Know all men by these presents, that James Frank and Thomas F. Ryan, being the owners in fee of three and one-half acres in the southwest corner of out-lot 108, in Indianapolis, and of three and one-half acres in the northwest corner of the east half of the northwest quarter of section 13, township 15, north of range 3, east, subdivided, platted, and recorded the plat of said seven acres in the Recorder's office, in Marion county, Indiana, and that lots 6, 7, 8 and 9, as marked on the plat of said Frank & Ryan's subdivision of the tracts aforesaid are all the lots abutting on that portion of Madison avenue asked to be vacated in a proceeding now pending before the Common Council of the city of Indianapolis: And whereas said James Frank and Thomas F. Ryan are the owners in fee of lots 7, 8 and 9 aforesaid, and Mary Kropp, wife of Jacob Kropp, is the owner in fee of lot 6, being all the lots abutting on the part of said street asked to be vacated: Now, therefore, we the said James Frank, Thomas F. Ryan, Mary Kropp and Jacob Kropp, her husband,

do hereby severally and jointly consent in writing to the vacation of that portion of Madison avenue, lying north of the donation line west of out-lot 108, and east of a direct extension northerly of the present east line of the Indianapolis and Southport Gravel Road, as described in the petition now pending before the Common Council of the city of Indianapolis, said vacation to be made by said Council on said petition.

In witness of which the said James Frank, Thomas F. Ryan, Mary Kropp and Jacob Kropp, her husband, have hereto set their hands and seals this 25th day of November, 1872.

JAMES FRANK,	[SEAL.]
JACOB KROPP,	[SEAL.]
MARY KROPP,	[SEAL.]
T. F. RYAN,]SEAL.]

STATE OF INDIANA, } SS:
Marion County, }

Before me, W. W. Woollen, Jr., a Notary Public in and for said State and county, this 25th day of November, 1872, James Frank and Thomas F. Ryan severally acknowledged the foregoing instrument as their act and deed.

Witness my hand and notarial seal this 25th day of November, 1872.

[SEAL.] W. W. WOOLLEN, Not. Public.

STATE OF INDIANA, } SS:
Marion County, }

Before me, Samuel W. Smith, a Notary Public in and for said State and county, personally came Mary Kropp and Jacob Kropp, her husband, and severally acknowledged the foregoing instrument as their act and deed.

Witness my hand and notarial seal this 25th day of November, 1872.

[SEAL.] SAMUEL W. SMITH, Not. Public.

And whereas the ownership of said lots 6, 7, 8 and 9 in said subdivision by said parties, has not been denied, and no remonstrance has been made against said vacation, and the Committee on Streets and Alleys to whom the foregoing petition and proofs and proceedings were referred, have duly examined the same and reported favorably thereon: Now, therefore, it is by the Mayor and Common Council

Ordered, That that portion of Madison avenue, in the city of Indianapolis, lying north of the north line of lot 6, in Frank & Ryan's subdivision of part of the southwest corner of out-lot 108, and of the northwest corner of the east half of the northwest quarter of section 13, township 15, north of range 3, east, and west of the west lines of lots 7, 8 and 9 of said subdivision, and east of the extension northerly of the present east line of the Indianapolis and Southport Gravel Road, until said line so extended intersects the west line of said out-lot 108, substantially as figured and described in the petition and plat filed in these proceedings, be, and the same is hereby, vacated and abandoned, and said portion of said avenue so vacated shall revert to and

belong to the owners of said lots 7, 8 and 9 in said subdivision, as provided by law.

Which was concurred in, and order of vacation adopted by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Craft, Gimber, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit and Wiles—13.

Negative—Councilman Woodburn—1.

Mr. Craft, from the Committee on Fire Department, made the following report:

INDIANAPOLIS, Dec. 2, 1872.

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

GENTLEMEN:—We the undersigned members of the Committee on Fire Department and Water Works, to whom was referred the petition of various citizens of West Indianapolis, praying that the water mains may be extended across the river, and fire hydrants erected in order to furnish them with fire protection, would beg leave to report that as soon as the Water Works Company put down their pipes across the river we will recommend that a sufficient number of plugs be put in to furnish the protection desired, but until the Water Works Company do extend their mains to that locality we cannot recommend the granting of the prayer of the petitioners.

Respectfully,

W. H. CRAFT,
C. E. WHITSIT,
E. J. HARDESTY,
Com. on Fire Dept.

J. H. WOODBURN,
LEON KAHN,
EDWARD REAGAN,
Com. on Water Works.

Which was concurred in.

Mr. Kahn, from the Committee on Accounts and Claims, made the following report:

INDIANAPOLIS, Dec. 2, 1872.

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

GENTLEMEN:—The undersigned members of the Committee on Accounts and Claims, to whom was referred the account of J. J. Palmer against the city for work alleged to have been done in changing the grade of Tinker street, between Illinois and the Lafayette Railroad, report that we have interviewed the Civil Engineer, whom we recognize as the only authorized agent of the city in determining the amount of work done on the various contracts for street improvements, and as he refuses to certify to the correctness or justice of the claim, stating that he has heretofore certified to and reported all that the said contractor was entitled to, we would therefore report adversely to the claim, and recommend that it be not allowed.

Respectfully submitted,

LEON KAHN,
W. H. CRAFT,
Committee.

Which was concurred in.

Mr. Gimber offered the following motion :

Moved, That the Street Commission be and he is hereby directed to notify the Terre Haute Railway Company to plank their crossing on West street.

Which was adopted.

The City Civil Engineer made the following report :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—I hereby report the following work finished better than the contract provided for, inasmuch as the contractor finished said work with *raked* gravel, whereas the contract calls for *good river* or *creek* gravel.

Michael Foust, for grading and graveling High street and sidewalks, from McCarty street to the first alley south of Bicking street.

Length on east side..... 1,192 ft. 3 in.
Length on west side..... 1,192 ft. 3 in.

Total length 2,384 ft. 6 in.

At 99½ cents per lineal foot. \$2,372 57

Respectfully submitted.

R. M. FATTERSON, City Engineer.

Mr. Kennington moved that the report be laid on the table.

Which was not adopted.

The question being on the approval of the Civil Engineer's report,

Those who voted in the affirmative, were Councilmen Batty, Bigham, Craft, Gimber, Kahn, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—12.

Those who voted in the negative were Councilmen Bollman, and Kennington—2.

So the report was concurred in.

Mr. Rush, from the Committee on Sewers, made the following report :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—We, your Committee on Sewers, to whom was referred the matter of placing two catch basins on Ray street, at the crossing of Chesnut street, would respectfully report that, in their opinion, the same are not needed, and would recommend that the Jeffersonville Railroad Company build two culverts under the railroad track at said crossing, and the City Marshal to notify them to have the work done in thirty (30) days.

Respectfully submitted,

F. P. RUSH,
DAVID GIBSON.
C. E. WHITSIT,

Com. on Sewers.

Which was concurred in.

Dr. Woodburn presented the following :

INDIANAPOLIS, Dec. 9, 1872.

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

GENTLEMEN:—The undersigned respectfully represent that the City of Indianapolis is indebted to them in the sum of eighty-one dollars and seventy cents, for services as short-hand reporters in a certain suit against the city, wherein N. R. Smith was plaintiff; that the undersigned presented to Hon. Jno. S. Harvey, City Attorney, a certain bill of account for their claim, wherein, by inadvertence, two errors occurred, one a small overcharge and

the other a small omission; that said Hon. J. S. Harvey, City Attorney, reported to the Council at the last meeting a recommendation that fifty dollars only of said bill be allowed; that said account and recommendation were referred to a committee for examination; that the petitioners, in consequence of the said inadvertency, will not be able to make proof of their said claim in the form in which it now stands:

Wherefore, they respectfully petition your honorable body that they may be allowed to file with the recording officer of the Council an amended and correct statement of their claim, which is herewith submitted, either in lieu of the one heretofore filed, or in connection therewith, and that it may be considered by the committee in the investigation of their claim.

Respectfully submitted,

STAGG & FISKE,

Short-hand Reporters.

Which was referred to the Committee on Accounts and Claims.

His Honor, the Mayor, offered the following motion:

Moved, That the Committee on Water Works, with the Chief Fire Engineer, investigate and act upon the expediency of filling private cisterns during the present drouth, from the public hydrants.

Which was adopted.

On motion the Council adjourned.

DANIEL MACAULEY, Mayor.

ATTEST:

JOHN R. CLINTON, City Clerk.