

PROCEEDINGS

OF THE

COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE }
CITY OF INDIANAPOLIS, }
Monday, March 10, 1873, 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 Bigham, Bollman, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thaman, Whitsit, Wiles and Woodburn—16.

Absent—Councilmen Batty and Cottrell—2.

The proceedings of the regular session held February 24, 1873, were read and approved.

Sealed proposals for the building of a Pest House, for the construction of a sewer in Potomac alley and in the alley in out-lot No. 101, and for building stone abutments for bridge over Pogue's Run on Michigan street, were received, opened, read and referred to the Committee on Contracts.

By consent, Mr. Pressly offered the following motion :

Moved, That the Committee on Contracts be instructed to contract for a picket fence to be built, eight or ten feet high, around the Pest House.

Which was referred to the Committee on Contracts.

REPORTS FROM CITY OFFICERS.

The City Clerk made the following report :

OFFICE OF CITY CLERK,
INDIANAPOLIS, March 10, 1873. }

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

GENTLEMEN:—The City Clerk would respectfully report that there are on file in his office affidavits for the collection of street assessments by precepts as follows :

Hanway & Hanna vs. R. E. O'Byrne.....	\$39 60
“ “ vs. F. A. Bryan	39 60
“ “ vs. Dennis Merrill.. ..	34 60
“ “ vs. Cynthia A. Edwards.....	52 96½
“ “ vs. Christ. Nieman.. ..	10 50
“ “ vs. Elizabeth Fiscus.....	66 00

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

Respectfully Submitted,

JOHN R. CLINTON, City Clerk.

Which was concurred in and precepts ordered to issue.

The Board of Health submitted the following report :

INDIANAPOLIS, March 10, 1873.

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 March 10, 1873:

Under 1 year.....	4
From 1 to 2 years	2

From 2 and 5 years	1
From 5 to 10 years.....	1
From 10 to 15 years.....	0
From 15 to 20 years.....	0
From 20 to 25 years.....	3
From 25 to 30 years.....	0
From 30 to 40 years.. ..	2
From 40 to 50 years.. ..	0
From 50 to 60 years.....	2
From 60 to 70 years.....	2
From 70 to 80 years.. ..	0
From 80 to 90 years.....	0
From 90 to 100 years.....	0
100 and upwards.....	0
Unknown.....	0
<hr/>	<hr/>
Total.....	17

Respectfully submitted,

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

W. WANDS, M. D., Secretary.

Which was received.

The City Solicitor made the following report :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—I have, in obedience to your instructions, examined the question as to the power of the Common Council to purchase lands whereon to locate slaughter-houses, bone-boiling establishments, and similar business establishments, and am of opinion that the Common Council has legal power to make such purchase.

I have examined a number of cases, but find that to attempt to state the reasons for my conclusions would make my report of unnecessary length.

Respectfully, B. K. ELLIOTT, City-Solicitor.

Which was concurred in.

The City Solicitor made the following report :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—I have examined and amended resolutions concerning the laying of water works, and herewith transmit them.

Respectfully, B. K. ELLIOTT, City Solicitor.

Which was received.

Also, the following resolutions :

Resolved, That the Water Works Company of Indianapolis be directed and required to lay down and extend pipes and mains upon and along the streets and within the limits hereinafter described, such pipes and mains to be laid down for the purpose of conveying and supplying water, and in conformity to the ordinances of said city of Indianapolis applying to and governing such matters.

Resolved, That the said city of Indianapolis is ready and willing to do the acts by the ordinances aforesaid of her required, and does offer to receive the hydrants furnished and located in accordance with the ordinances aforesaid, and to pay rent for all water furnished for her, in conformity to the said ordinances, and to do and perform all acts by said ordinances of her required.

Resolved, That water pipes and mains shall be by said Company laid upon the following named streets :

On Delaware street to Tinker street (from St. Mary's.)

On Meridian street, from Second to Tinker street.

On Virginia avenue, from Merrill to Dillon street.

On Tennessee street, from North to Tinker street.

On Noble street, from Washington street to Massachusetts avenue.

On the National Road, from Geisendorff street to Blake street, on Blake street to New York street, and from New York street to West street.

On Pennsylvania street, from South street to Madison avenue, and south on Madison avenue to McCarty street.

On South street, from East to Noble street.

On Mississippi street, from North to Tinker street.

From Massachusetts avenue, on Ash street to Christian avenue, on Christian avenue to College avenue, north on College avenue to Home avenue.

From Cumberland street south on West to South street.

On New Jersey street, from South to McCarty street.

From South on Alabama to McCarty street.

From South on East to McCarty street.

North on Pennsylvania street from Second to Tinker street.

On Huron street, from Virginia avenue to Noble street.

Resolved, That the said Water Works Company be, and is hereby, required to lay down the pipes as hereinbefore provided upon the National Road from Geisendorff street to Blake street before the first day of May, 1873, and to lay the pipes hereinbefore mentioned and required to be laid upon other streets, with reasonable diligence, and to fully and entirely complete the work of laying such pipes on or before the first day of August, 1873, and by that date to have all of said pipes properly and completely laid and in condition to supply water as provided in the ordinances of the said city of Indianapolis.

Resolved, That a certified copy of these resolutions be certified by the City Clerk to the City Marshal, and that the said Marshal at once serve them upon the Water Works Company, and of his service, without delay, make due return to the City Clerk, who shall file and preserve the same.

Mr. Wiles offered the following amendment :

Moved, That the Water Works Company be, and they are hereby, directed to extend their water mains on East street from North to Cherry street, and on Fort Wayne avenue to Christian avenue.

Mr. Bigham offered the following amendment :

Moved, That the Water Works Company be, and is hereby, directed to extend their water mains from along Market street from Pennsylvania to Winston street, and from the present terminus on Ohio street along Ohio to Winston street.

Mr. Kennington offered the following amendment :

Moved, That the Water Works Company be ordered to lay the main from Merrill street to Madison avenue on South Delaware street.

On motion by Mr. Kahn, the above amendments were laid on the table.

Mr. Kennington then moved to lay the resolutions on the table.

Which motion was not adopted.

The resolutions were then adopted by the following vote :

Affirmative—Councilmen Bigham, Bollman, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—15.

Negative—Councilman Reagan—1.

The City Solicitor made the following report :

INDIANAPOLIS, March 7, 1873.

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

GENTLEMEN:—At your meeting on Friday evening, 28th ult., a series of questions were propounded to me by your honorable body, which I state and answer.

The first question asked is—"When does the lien for city taxes attach?"

To this I answer that the charter contains, as to real estate, the following provision: "The lien of such incorporated city for all taxes, general or specific, shall attach on all real estate on the first day of January, annually," (§ 36.) This is sufficiently clear and explicit.

In the case of *Baker vs. Morton*, 19 Ind. 147, the Court decided that the lien upon personal property does not attach until the delivery of the duplicate to the Treasurer.

The second question is—"Is the personal property the primary fund for the payment of taxes?"

To this I answer: The charter very plainly indicates that the personal property is the primary fund; and it has been repeatedly held by the Supreme Court that, where the tax payer has personal property within the city limits sufficient to pay all taxes there can be no valid sale of real estate until the personal is first exhausted.

The third question is—"Can the real estate only be resorted to on failure of personal?"

The answer to the preceding question answers this substantially in the affirmative.

The fourth question is—"Is it the duty of the Treasurer to seek for personal property before selling real estate, or is it optional with him to do so or not?"

In answer to this I say: The Treasurer has no option in the matter; it is his duty to seize and sell personal property before offering to sell real estate. I do not think, however, that he is bound to make any search for personal property, but if there be personal property in the possession of the tax payer readily accessible, that it is his duty to seize and sell such property before seizing real estate.

The fifth question is—"If at this time there is a large amount of real estate advertised for sale for delinquent taxes, and the same should be sold for such tax without personal property first having been sought, out of a large number of such cases might there be many illegal sales, and might it occasion embarrassing consequences to the city revenues?"

In answer to this I say: Sales of real estate, where the tax payer has sufficient personal estate, are, as already stated, illegal, but do not divest the lien

for taxes. The lien remains upon all property, following it into all hands, until the taxes are paid. Upon sales of real estate made under such circumstances, no costs of sale, nor the penalty provided by the charter could be collected. I mean now the penalty provided in cases where property is suffered to go to sale. Such sales would be set aside upon payment of the taxes and interest, but there would not be any right to demand either the penalty imposed in cases of forfeiture, nor the costs of making such sale, but the lien for taxes and interest would remain in tact.

The sixth question is—"Where taxes are not collected by the third Monday in March, should the Treasurer assign reasons why such taxes could not be collected, and should such reasons be noted on the margin of the delinquent list by the City Clerk?"

To this I answer: The charter does direct the Clerk to make such marginal notes, but I do not think his failure to do so would affect the lien for taxes, nor would it relieve the tax payer from the penalty for delinquency. I have examined many authorities and think the law well settled.

The seventh question is—"Are lands or lots properly upon the delinquent list unless accompanied by the reasons showing why they are delinquent?"

In answer I say: That although the Clerk is directed to do this thing, yet his failure to do so will not impair the tax lien. Under such a state of facts the tax payer could only have relief upon payment or tender of the taxes and interest. I think the cases of *Jones v. Sumner*, 27 Ind. 510, and *Muselman v. City of Logansport*, 29 Ind. 533, hold this general doctrine, and in the reports of other States there are many cases to the same effect.

The eighth question is put in the form of hypothetical case, and is as follows: "If after the first day of January "A" sold real estate to "B" with covenants of general warranty, is "A" liable for the taxes for that year?"

My answer is—Yes.

The ninth question is—"If yes, is his personal property a primary fund out of which such taxes should be made?"

I answer—Yes.

The tenth question is—"If yes, should the Treasurer seek for personal property of "A" to satisfy the same?"

This question has been already substantially answered in the affirmative.

The eleventh question is—"Has the Treasurer the legal right to sell the real estate of "B" until he has first sought for and failed to find personal property of said "A"?"

I answer: As I have said, the personal property is the primary fund, and where a property owner can show that his vendor had personal property which might, with ordinary diligence have been seized by the Treasurer, the sale will not stand. A failure of the Treasurer to seize personal property does not des-

stroy the lien. Until paid, the taxes are a lien following the realty into whatever hands it may pass.

The twelfth question is—"Provided it could be shown that "A" had personal property from which said tax might have been made had the Treasurer sought for it at the proper time, and yet the Treasurer without seeking for it had sold the real estate of "B," could the purchaser at such sale compel "B" to pay the penalty in order to redeem?"

In answer I say: It is apparent from what I have already said that neither the purchaser nor the Treasurer could compel the payment of the penalty imposed upon those asking to redeem from tax sales.

The thirteenth question is—"Could the city compel him to pay the costs of advertising and sale?"

I answer: No.

The fourteenth question is—"Would the Treasurer be entitled to fees?"

I answer: No.

The fifteenth question is—"If to save said real estate from sale "B" should be compelled to pay such delinquent tax, and should do so under protest, could he recover the amount from the Treasurer personally, or from the city?"

My answer is: That as the taxes were a lien and the money paid under such circumstances went to the discharge of a subsisting lien, I do not think that they could be recovered back from the city. As to the personal liability of the Treasurer, there is considerable doubt, as is more fully shown in the answer to the succeeding questions.

The sixteenth and seventeenth questions are—"If at the proper time the Treasurer could have found the necessary personal property, but through his neglect subsequently such property could not be found, is the Treasurer personally liable?"

"If by reason of such neglect "B" is compelled to pay such tax to save his real estate from sale, and does so under protest, or to pay an amount to redeem it from such sale, can "B" recover the amount from the city, or the Treasurer personally?"

These questions, involving as they do the same legal proposition, are considered and answered together.

The taxes are, as I have said, until paid, a valid and subsisting lien against the property, and that lien can only be extinguished by payment. A late writer, speaking of cases such as the present, says: "Actions of this description against a municipal corporation, are upon principle, and the weight of authority maintainable, when, and in general *only when*, the following requisites co-exist:

"1. The authority to levy the tax must be wholly wanting, or the tax itself

wholly unauthorized, in which cases the assessment is not simply irregular but absolutely void.

"2. The money sued for must have been actually received by the defendant corporation, and received by it for its own use, and not as an agent or instrument to assess and collect money for the benefit of the State, or other public corporation or person.

"And 3. The payment by the plaintiff must have been made upon compulsion, to prevent the immediate seizure of his goods or the arrest of the person, and not voluntarily. Unless these conditions concur, paying under protest will not give a right of recovery."

The first chief requisite could not exist in such a case as that put in the questions, because there is no want of power, the utmost that can be claimed is that the officer was derelict in the duty of collecting.

As to whether there is any personal liability on the part of the Treasurer there is more doubt. My impression is that he would not be liable under the circumstances stated in the question.

The remedy of the owner in such a case as that supposed would, I think, be *mandamus*. I have but little doubt that the vendee could direct the Treasurer to levy upon and sell the vendors personal property, and that upon his refusal to do so the Court would compel the performance of the duty by mandate. It is certainly the duty of the Treasurer when so directed by an interested party, to first exhaust the vendor's personal property. The duty is a plain and specific one, and a Court would undoubtedly, in the proper case, compel its performance.

Respectfully,

B. K. ELLIOTT, City Solicitor.

Which was concurred in.

The City Solicitor made the following report :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—I herewith report an ordinance, as directed, relative to the payment for certain real estate to the heirs of Jane Pierce, deceased.

Respectfully,

B. K. ELLIOTT, City Solicitor.

Which was received.

Also special appropriation ordinance No. 14, 1873, entitled :

An ordinance to provide for the payment of damages to the children and heirs of Jane Pierce, deceased.

Which was read the first time.

ORDINANCES ON FIRST READING.

Mr. Gimber introduced special ordinance, No. 30, 1873, entitled:

An ordinance to provide for grading and paving with bricks the sidewalks of Illinois street from Ray street to Pogue's Run.

Which was read the first time.

Also special ordinance No. 31, 1873, entitled:

An ordinance to provide for grading and paving with bricks the sidewalks of Illinois street from Ray to Norwood street.

Which was read the first time.

Mr. Sherwood introduced special ordinance No. 32, 1873, entitled:

An ordinance to provide for grading and bowldering the alley running north and south in square 16, from Vermont to Michigan streets.

Which was read the first time.

Dr. Woodburn introduced special appropriation ordinance No. 15, 1873, entitled:

An ordinance appropriating money for the payment of sundry claims on account of City Hospital for the month of February, 1873.

Which was read the first time.

Also special appropriation ordinance No. 16, 1873, entitled:

An ordinance appropriating money in aid of Bobbs' Free Dispensary for the year 1873.

Which was read the first time.

Mr. Whitsit presented the following petition :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Linden street, between English avenue and Huron street, respectfully petition your honorable body to pass an ordinance providing for the grading and graveling of said street between the points above named. And your petitioners will ever pray, &c.

Amasa Stone, jr., Stillman Witt, Jno. Wm. Taylor, Ex.,
Jas. M. Hoyt and John S. Spann.

Which was received.

Also special ordinance No. 33, 1873, entitled :

An ordinance to provide for grading and graveling Linden street and sidewalks from English avenue to Huron street.

Which was read the first time.

Also the following petition :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Fletcher avenue, between Dillon and Linden streets, respectfully petition your honorable body to pass on ordinance providing for the grading and graveling of said street between the points above named. And your petitioners will ever pray, &c.

Amasa Stone, jr., Stillman Witt, Jno. Wm. Taylor, Ex.,
Jas. M. Hoyt and John S. Spann.

Which was received.

Also special ordinance No. 34, 1873, entitled :

An ordinance to provide for grading and graveling Fletcher avenue and sidewalks from Dillon to Linden street.

Which was read the first time.

Also the following petition :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Spann avenue, between Dillon and Linden streets, respectfully petition your honorable to pass an ordinance providing for the grading and graveling of said street between the points above named. And your petitioners will ever pray, &c.

Amasa Stone, jr., Stillman Witt, Jno. Wm. Taylor, Ex.,
Jas. M. Hoyt, John S. Spann, Samuel Wallace and
Jonathan Gray.

Which was received.

Also special ordinance No. 35, 1873, entitled :

An ordinance to provide for grading and graveling Spann avenue and side-walks from Dillon to Linden street.

Which was read the first time.

Also the following petition :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Hoyt avenue, between Dillon and Linden streets, respectfully petition your honorable body to pass an ordinance providing for the grading and graveling of said street between the points above named. And your petitioners will ever pray, &c.

Amasa Stone, jr., Stillman Witt, Jno. Wm. Taylor, Ex.,
Jas. M. Hoyt and John S. Spann.

Which was received.

Also special ordinance No. 36, 1873, entitled :

An ordinance to provide for grading and graveling Hoyt avenue and side walks from Dillon to Linden street.

Which was read the first time.

Mr. Thalman introduced general ordinance No. 9, 1873, entitled :

An ordinance appropriating money and ground for the widening and extension of Locke street from Indiana avenue to Elizabeth street.

Which was read the first time.

Mr. Kahn introduced general ordinance No. 10, 1873, entitled :

An ordinance in relation to the Pest House, and prescribing regulations for the government thereof.

Which was read the first time.

Mr. Reagan introduced special ordinance No. 37, 1873, entitled :

An ordinance to provide for grading and graveling Missouri street and sidewalks from Ray to McCarty street.

Which was read the first time.

Mr. Wiles presented the following petition :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—I would respectfully request that your honorable body order an improvement of the first alley running east and west north of Christian avenue, for the distance beginning at College avenue and running thence west to the first alley west of College avenue running north and south, being for the distance of one-half square; the improvement to consist in properly grading same and graveling it with good screened gravel.

The improvement for that distance is absolutely necessary both for the preservation of health and travel; as now situated the alley is filled with water, rendering the immediate vicinity unhealthy and almost impassable. That the owners of property beyond this length are opposed to the improvement. That I own one-half of the land to be affected by such improvement.

CHAS. W. SMITH.

Which was received.

Mr. Wiles introduced special ordinance No. 38, 1873, entitled:

An ordinance to provide for grading and graveling the first alley running east and west, north of Christian avenue, from College avenue to the first alley west of College avenue.

Which was read the first time.

Also the following petition:

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Archer street, between Clifford avenue and Michigan street, respectfully petition your honorable body to pass an ordinance providing for the grading and graveling said street in accordance with the customary rules for such work. And your petitioners will ever pray, &c.

John L. Hanna, Madison Hanna, Zotique Pariseau, Geo. W. Royer, Daniel Whilehen, and 15 others.

Which was received.

Also special ordinance No. 39, 1873, entitled:

An ordinance to provide for grading and graveling Archer street and sidewalks, between Clifford avenue and Michigan street.

Which was read the first time.

Mr. Pressly presented the following petition:

INDIANAPOLIS, March 10, 1873.

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

Rosa Wichman respectfully represents to your honorable body that she is the owner of lot 14, in out-lot 99, in the city of Indianapolis, which lot fronts on Dougherty street. That she purchased the same from Adam R. Miller on the 19th day of May, 1871, and assumed to pay the taxes thereon for the year 1871. That on the 16th day of March, 1872, she called at the office of the City Treasurer, in this city, and told said Treasurer she wanted to pay the tax due on her lot on Dougherty street, meaning the lot above described, and that being the only lot owned by her on said street. Whereupon the said Treasurer received from her \$9.60, as shown by the accompanying receipt,

but credited that amount on 28 feet east of 83 feet west end of middle $\frac{1}{4}$ of out-lot 92, that being another piece of property formerly owned by her and sold to one Kelly, who was to pay said taxes named in the receipt. That she did not recognize the description in said receipt as being other than her home property on Dougherty street as above described, and knew nothing of the mistake until she saw said lot 14 advertised for sale for said taxes for 1871. That the said Treasurer made a mistake in receipting to her for the taxes on the Kelly property instead of for her own as described to him. Wherefore she asks that the Treasurer be ordered to correct said mistake, and credit said amount on lot 14, in out-lot 99, on the taxes for 1871.

MRS. ROSA WICHMAN.

Subscribed and sworn to before me this 10th day of March, 1873.

URI. A. PECK, Not. Public.

I, Mrs. Ann E. Hilt, was with Rosa Wichman on March 16, 1872, at the City Treasurer's office when she paid there \$9.60 for taxes. She directed the Treasurer to credit the same on her property on Dougherty street, and that was the only property she owned on said street.

MRS. ANN E. HILT.

Subscribed and sworn to before me, a Notary Public, this tenth day of March, 1873.

URI. A. PECK, Not. Public.

Also the following petition:

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—We, the undersigned, respectfully represent to your honorable body that the sum of taxes assessed against us is greatly in excess of the amount which in justice and equity we should pay. The tax papers on which the assessment is based was made by our then book-keeper at the sum of \$3,900, which sum was fully \$2,000 greater than it should have been. We wish to pay the amount we may owe at once, and therefore pray your honors to direct the Finance Committee, with your Assessor, to investigate and report the amount which we should pay upon the corrected assessment.

We are, respectfully.

DUNN & KARNEY,

Per Dan'l B. Culley.

Which were referred to the City Assessor.

Also the following petition :

INDIANAPOLIS, March 3, 1873.

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

We respectfully request that the taxes assessed against lot 9, square 3, city of Indianapolis, for the year 1871, as delinquent, be remitted, as in that year it was held by the Trustees of the Society of Friends for religious purposes and nothing else. Also, that the taxes assessed against lots 15, 16 and 17, of Martindale's Central Addition to Indianapolis, for the year 1872, be remitted and the Assessor be required not to assess the same lots in the future, as those lots were bought by and held in trust by us as Trustees of Fall Creek Monthly Meeting of the Society of Friends, for religious purposes and nothing else.

Abner Pope, Joseph Cook, Allen Lukens and Joseph Schofield, Trustees of A. J. P.

Which were referred to the Committee on Finance, City Solicitor and City Assessor.

The special order of business for the evening, namely, the consideration of the ordinance providing for the purchase of the Sellers' farm, to be used for the purpose of locating thereon slaughter-houses, soap-factories, &c., was then taken up,

Mr. Gibson presented the following petition :

INDIANAPOLIS, March 7, 1873.

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

GENTLEMEN:—Your petitioners, residents of said city, respectfully request your honorable body to secure, by purchase, the Sellers' farm south-west of the city, for the purpose of causing the removal from the city and its immediate vicinity of soap factories, bone and bristle works, fertilizing establishments, dead animals, and all other nuisances which at present are exceedingly offensive to a large portion of the citizens, who dare not open doors and windows because of the offensive odors which often causes nausea and vomiting, injuring their health, destroying their comfort, and greatly impairing the value of their property.

Respectfully submitted,

James W. Hudson, Thos. Coridan, Philip Coridan, John Sheehy, David Sippel, and about 700 others.

Which was received.

General ordinance No. 7, 1873, entitled :

An ordinance authorizing the purchase of certain lands to be used for the purpose of locating thereon slaughter houses, soap factories and establishments of like general character.

Was read the second time.

Mr. Pressly offered the following motion :

Moved, That the whole matter in reference to the purchase of the Sellers' Farm, or any other farm, for the location of stink factories, be postponed until the May election, and then put to a vote of the people as to whether it shall be bought or not.

Which was not adopted.

Mr. Thalman offered the following amendment :

That instead of \$20,000 cash the following be inserted—In bonds running 20 years, with interest not exceeding eight per cent.

Which was adopted.

Mr. Kennington moved to postpone the whole matter until next Monday night.

Mr. Bigham moved to lay the motion to postpone on the table.

Which motion was not adopted.

Mr. Kennington's motion was then adopted.

CALL OF THE ROLL OF MEMBERS

For the Presentation of New Business.

Mr. Bigham offered the following motion :

Moved, That the Street Commissioner be, and is hereby, directed to place stone crossings across Washington street near the corner of Noble; also, to place stone crossings on Noble street near Washington.

Which was adopted.

Also the following motion :

Moved, That the City Civil Engineer be, and is hereby, directed to set the grade stakes in the first alley east of Winston street, and running east and west from Winston to Harvey street, and between Ohio and Market streets.

Which was adopted.

Mr. Gibson offered the following motion :

Moved, That the City Treasurer be, and is hereby, directed to pay all interest bearing warrants as presented, as far as the money in the treasury will permit.

Which was adopted.

Mr. Gibson presented the following petition :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—I would most respectfully ask permission of your honorable body to grade and pave with brick the sidewalk in front of my property, to-wit, the west half of lot 8, in square No. 11, on North West street. As your petitioner would ever pray.

Respectfully,

ELIZA A. GOFF.

Which was laid on the table.

Mr. Kahn offered the following motion :

Moved, That any contractor failing to comply with the full conditions and provisions of any contract, shall receive no estimate from the City Civil Engineer, and that official is hereby instructed to be governed accordingly.

Which was adopted.

Mr. Pressly offered the following motion :

Moved, That Ryan & Hilt be, and they are hereby, permitted to grade and gravel the alley between lots 74 and 75 in Dougherty's subdivision of out-lot 99, the same to be done at their own expense and under the direction and

to the satisfaction of the City Civil Engineer, who is hereby directed to set the grade stakes.

Which was adopted.

Mr. Pressly presented the following remonstrance :

INDIANAPOLIS, March 10, 1873.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Summit street, between Washington street and Michigan Road, or street, respectfully remonstrate against the passage of an order of vacation of said Summit street, between the P. C. & St. L. R. R. Co.'s and the Cin. H. & Ind'plis R. R. Co.'s tracks and the Michigan Road, there being at present a petition pending before your honorable body asking for the vacation of said Summit street.

And your remonstrants will ever pray, &c.

Wm. C. Taylor, Jos. W. Whitaker, Francis Barnitt, J.
B. Whitsit, and 5 others.

Which was referred to the Committee on Streets and Alleys and Committee on Railroads.

Mr. Reagan offered the following motion :

Moved, That the Street Commissioner grade with cinder or coarse gravel the west sidewalk of West street, between McCarty and Root streets, to prevent the overflow of water on said sidewalk.

Which was adopted.

Also, the following motion :

Moved, That the Street Commissioner be, and is hereby, ordered to open the gutter on West street, between Washington and McCarty streets.

Which was adopted.

Also the following motion :

Moved, That the Street Commissioner see that the bowlders be relaid on

Louisiana street, between Tennessee and Illinois streets, and that the same street be cleaned up.

Which was adopted.

Mr. Gibson offered the following motion :

Moved, That the City Civil Engineer be, and is hereby, directed to report to this Council what is necessary to prevent the water from running over the sidewalks on Center street between Ellen and Douglass streets.

Which was adopted.

Mr. Thalman offered the following motion :

Moved, That the City Clerk advertise for proposals (for one week) for putting stone abutments under the bridge crossing the Canal on West street, between Ohio and Market streets.

Which was adopted.

On motion by Mr. Whitsit, the rules were suspended for the purpose of taking up and passing the following ordinances :

Special appropriation ordinance No. 16, 1873, entitled :

An ordinance appropriating money in aid of Bobbs' Free Dispensary for the year 1873.

Was read the second time and ordered engrossed.

Special appropriation ordinance No. 15, 1873, entitled :

An ordinance appropriating money on account of City Hospital.

Was read the second time and ordered engrossed.

Special appropriation ordinance No. 14, 1873, entitled :

An ordinance providing for the payment of damages to the heirs of Jane Pierce, deceased.

Was read the second time and ordered engrossed.

Special ordinance No. 17, 1873, entitled :

An ordinance providing for grading and paving with wooden block pavement Meridian street, from the south side of New York street to Tinker or Seventh street, and curbing the sidewalks thereof with stone.

Was read the second time.

Mr. Wiles offered the following amendment :

Amend by striking out "according to specifications to be furnished by a commission of resident freeholders on said street, consisting of Oliver Tousey, Valentine Butsch, Dr. H. G. Carey, J. D. Vinnedge and Addison C. Harris, who shall superintend the construction of said pavement."

Also the following amendment :

Amend by inserting after the word "length," "to be made and constructed according to the specifications to be furnished by the Civil Engineer and under his supervision: *Provided*, That the following property holders on the line of said work, to-wit, Valentine Butsch, Dr. G. H. Carey, Oliver Tousey, Joseph D. Vinnedge, Wm. S. Hubbard and Henry D. Pierce are hereby appointed as an advisory committee to act in conjunction with the Committee on Contracts in awarding the contract for said work, and shall also advise with the Civil Engineer in drawing the specifications and assist in superintending said work, but the whole to be done under the direction and control of said Engineer and said Council."

Which were adopted.

Mr. Sherwood offered the following amendment :

That the city only agrees to pay on said improvement for street and alley crossings and for property owned and claimed by the city.

Which was adopted.

Dr. Woodburn moved to insert that the sidewalks between New York and St. Clair streets be widened and graded to the width of twenty feet.

Which was adopted.

The ordinance as amended was then ordered engrossed.

Special ordinance No. 17, 1873:

Was read the third time,

When Mr. Kennington moved that the Council now adjourn.

Which motion was adopted.

DANIEL MACAULEY, Mayor.

ATTEST:

JOHN R. CLINTON, City Clerk.