ADJOURNED MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS,
March 14, 1892.

The Common Council of the City of Indianapolis met in the Council Chamber Monday evening, March 14, at 8 o'clock P. M., in adjourned meeting.

Present, Hon. Martin J. Murphy, President of the Common Council, in the Chair, and 20 members, viz.: Messrs. Allen, Colter, Costello, Gasper, Gauss, Holloran, Laut, Linn, McGill, McGuffin, Olsen, Puryear, Rassmann, Ryan, Schmidt, Schrader, Sherer, White and Young.

Absent, one, viz.: Councilman Cooper.

The Proceedings of the Common Council for the special session held Thursday, March 10, 1892, having been printed and placed upon the desks of the Councilmen, said Journal was approved as published.

The Clerk proceeded to read the Journal, whereupon Councilman Rassmann moved that the further reading of the Journal be dispensed with.

Which motion prevailed.

REPORTS FROM OFFICIAL BOARDS.

DEPARTMENT OF PUBLIC WORKS,
OFFICE OF THE BOARD,
INDIANAPOLIS, IND., Mar. 14, 1892.

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

GENTLEMEN.—Your message transmitting General Ordinance No. 14, 1892, with certain amendments suggested by your honorable body and in which you urge this Board to make known the result of its efforts, in the directions indicated, by Monday March 14, 1892, was received by this Board on March 11, 1892.

The Board of Public Works begs leave to make report as follows: The proposed changes were carefully considered, and while in this as in all other matters of public concern we are desirous of availing ourselves of every suggestion from the Common Council, which will tend to better protect and guard the city's interests, as to the subject now under consideration we find ourselves confronted with such conditions as to render any modification of the contract already entered into, hazardous to the successful establishment of the proposed enterprise.

We called before us the counsel of the Broad Ripple Company for the purpose of ascertaining what, if any, power was possessed by them in the way of agreeing to any amendments to their proposed franchise and learned that none of the local representatives of the party of the second part are authorized to act for the company in that behalf; that all such questions must be forwarded to New York City and agreed to by Mr. Belknap, as its President, after full authority, having been conferred upon him by resolution duly passed by the Board of Directors of the Company, and any change, however desirable, can not be made until agreed to by the company, and the time within which you request us to report is not sufficient for such action.

After careful deliberation, in view of the brief time within which we are requested to report, and the near approach of the day upon which the company must make its deposit and exhibit contracts to the Board of County Commissioners, we reached the conclusion that it would be impossible to formulate the amendments suggested and obtain the assent and signature of the company thereto. To

do this would greatly jeopardize, if not absolutely defeat a final confirmation of the undertaking, and while there may be some changes which would be desirable, we feel that they are not of sufficient moment to justify the city in jeopardizing an investment of such magnitude, and one which must add greatly to its material wealth and the prosperity of its citizens.

Aside from the considerations above set forth, making reference to the amendments proposed, we have to say:

The one suggested, which provides for the purchase of the company's property at any time within the year 1901, as a general rule would be a wise reservation of power. The Board at the time considered this very point It was determined, however, that in the present case it would be impracticable for the reason that the road contemplated is suburban in character, having the smaller part of its right of way within the city limits. Its power-house, located about midway between its termini, will be in the country. The city is without power to purchase and operate railroads or street-cars beyond its own boundaries. Hence, if the city were to purchase only that portion of the line of this company, which it might have the authority to do, the company itself would be the owner of a power plant and several miles of line lying outside of the city, which would thus lose its suburban character; while the city might own the other end, but would be without a power plant with which to operate it. Under these conditions the clause providing for purchase was omitted and thus the company is saved what might be an embarrassing condition and the city loses only that which would be undesirable to possess. Considering the character and size of the investment and the many safe-guards thrown around the grant we regarded the term of twenty years as being altogether reasonable and fair to both parties.

The second amendment suggested requiring that any assignment or sale of the company's property shall not be valid until approved by the Board of Public Works, is a condition probably within the power of the city to impose and one which the Board would be willing to incorporate in the proposed instrument if time permitted the company to consider and accept it. However, we are advised that any provision prohibiting the owners of the property from making such disposal thereof as they might desire would be invalid as being in restraint of trade. And while a city, which grants a franchise privilege, may at the time reserve the power above indicated to be exercised within reasonable limits and in such a manner as not to destroy the right of its owners to enjoy and dispose of their interests, even such a condition could not prevent the sale of the stock of the company held by individual persons without such approval. The limitation suggested would merely have the force of restricting the sale of the property as an entirety or the change of its name until consent had been given by the Board.

The third and last change suggested is intended to provide means for the settlet ment of labor difficulties. The idea of arbitration is one receiving the hearty endorsement of this Board, but we are strongly of the view that this is a subjec which should, and probably will, at an early day, obtain the sanction of the General Assembly and be provided for by adequate law. At present there is no statute which invests a Board of Arbitration with the authority necessary to render its conclusions binding or effective. In the absence of all legislation upon this subject there may be some doubt as to whether the Mayor of the city, as its representative, could even, by contract, be invested with the power to seize and operate a street-car system. Would the municipality, in its corporate capacity, be responsible for his honest and efficient operation of the same, or would he be personally responsible? To whom would he report? These are among the queries which suggest themselves for solution. The issues to be settled in case of a strike are between the company and its men, and any agreement to be possessed of binding force must be assented to not only by the company but by its employes as well. It seems clear, therefore, that this question, freighted with such importance to the public and business interests of the State, should be first treated by the highest law-making power and some tribunal established, clothed with the necessary judicial functions and powers to make its decrees binding upon those subject to its jurisdiction.

Having stated the obstacles to any amendment of the contract made and indicated certain views entertained by this Board with reference to the particular changes suggested, we deem it proper that we should call the attention of the Common Council to some of the provisions contained in the proposed franchise,

and the public interests which will be subserved by its adoption. Many weeks have been spent in a conscientious effort to cover and protect every material interest of the city, and, at the same time, prepare a document under which the vast capital, necessary to establish and maintain such an enterprise, would not be shorn of its revenue—producing power. The present contract, in all material points, is the same as the one which was unanimously approved by the old Council a few months ago. And we wish to assure the members of your honorable body that, in each particular, it was prepared and carefully weighed by this Board and the City Attorney before adoption; and those giving it the endorsement of their vote, may do so in the implicit faith that the insertion of every condition contained in the contract was inspired by a most ardent desire to see that the city should receive full compensation for the rights and privileges granted.

An electric line employing the latest practical improvements; paving between its rails and tracks and planking at crossings of unimproved streets; heating its cars; charging a five-cent fare over a line of ten miles; providing for transfer tickets, including any extension hereafter made, using a "V" rail, insuring the city against all damage; using iron or steel poles within the city; filing a good and sufficient bond and paying quarterly into the city treasury two and one-half per cent. for the first five, and five per cent. for the succeeding fifteen years on its gross receipts and in nearly all particulars subjecting its conduct to the approval of the Board of Public Works, present a list of obligations and limitations remarkably liberal to the city, and as far as we have been able to learn, without precedent in this or other cities of the country. We are confident that the capitalists now seeking admission under this contract are men of great wealth and fully determined, if given the privileges asked, to push their undertaking to a speedy and successful termination. The construction and operation of the road will give employment to a large number of men, and not only afford, at least, the opportunity of competition, but add material wealth to the city and result in increased values and facilities to a new and additional territory of the city now unsupplied with street car advantages.

In view of the question of time and for the other reasons hereinbefore given, the undersigned members of the Board of Public Works are of the opinion that no one of the amendments, in the form proposed, should be adopted, and, therefore, we most respectfully herewith return the contract made and entered into between this Board and the Broad Ripple Rapid Transit Company on the first day of March, 1892, without change, for the further consideration and action of the Common Council.

Very respectfully submitted,

A. W. CONDUITT, *President,*
M. M. DEFREES,
Board of Public Works.

Mr. Laut moved that thirty days' further time be granted the Board of Public Works for the purpose of securing the amendments suggested by the Common Council to G. O. No. 14, 1892: An ordinance confirming a certain contract made and entered into on the 1st day of March, 1892, by and between the City of Indianapolis and the Indianapolis and Broad Ripple Rapid Transit Company, wherein said company is granted a certain right of way for the construction and maintenance of an electric street railway within the City of Indianapolis, and the operation of cars thereon, upon certain terms and conditions therein set forth.

Mr. White moved that the President of the Council appoint a special committee of three to wait on the County Commissioners for the purpose of securing an extension of the time granted the Indianapolis and Boadr Ripple Rapid Transit Company.

Mr. Gasper moved to lay Mr. White's motion on the table.

Which motion was lost by the following vote:

AYES 9—viz.: Councilmen Allen, Costello, Gasper, Holloran, Linn, Puryear, Sherer, Young and President Murphy.

NAYS 11—viz.: Councilmen Colter, Gauss, Laut, McGill, McGuffin, Olsen, Rassmann, Ryan, Schmidt, Schrader and White.

The question being on the adoption of Mr. White's motion.

Mr. McGill moved the previous question.

The ayes and nays being called for by Mr. Young and Mr. Gasper, the roll was called, which resulted in the following vote:

AYES 14—viz.: Councilmen Colter, Costello, Gauss, Laut, McGill, McGuffin, Olsen, Rassmann, Ryan, Schmidt, Schrader, Sherer, White and President Murphy.

NAYS 6—viz.: Councilmen Allen, Gasper, Holloran, Linn, Puryear and Young.

The question being on the main question.

The ayes and nays being called for by Mr. Linn and Mr. Young, the roll was called, which resulted in the following vote:

AYES 10—viz.: Councilmen Colter, Gauss, Laut, McGill, McGuffin, Olsen, Ryan, Schmidt, Schrader and White.

NAYS 10—viz.: Councilmen Allen, Costello, Gasper, Holloran, Linn, Puryear, Rassmann, Sherer, Young and President Murphy.

The question being upon the motion by Mr. Laut.

The ayes and nays being called for by Mr. Young and Mr. Gasper, the roll was called, which resulted in the following vote:

AYES 8—viz.: Councilmen Colter, Laut, McGill, McGuffin, Ryan, Schmidt, Schrader and White.

NAYS 12—viz.: Councilmen Allen, Costello, Gasper, Gauss, Holloran, Linn, Olsen, Puryear, Rassmann, Sherer, Young and President Murphy.

Mr. Costello moved that G. O. No. 14, 1892, be taken up, ordered engrossed, read third time and passed.

Which motion was adopted.

The vote was then taken on the passage of G. O. No. 14, 1892.

The roll was called, which resulted in the following vote:

AYES 8—viz.: Councilmen Allen, Costello, Gasper, Holloran, Linn, Puryear, Sherer and Young.

NAYS 12—viz.: Councilmen Colter, Gauss, Laut, McGill, McGuffin, Olsen, Rassmann, Ryan, Schmidt, Schrader, White and President Murphy.

On motion of Mr. Ryan the Common Council, at 9 o'clock P. M., adjourned.

M. J. Murphy
President.

ATTEST: R. A. Adams
City Clerk.