

PROCEEDINGS

OF THE

BOARD OF ALDERMEN.

ADJOURNED SESSION.

CHAMBER OF THE BOARD OF ALDERMEN OF
THE CITY OF INDIANAPOLIS, }

Wednesday, August 8th, 1877—8 o'clock P. M. }

The Board of Aldermen met, pursuant to adjournment.

The Clerk called the Board to order, and proceeded with a call of the roll; which resulted as follows:

Present—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Absent during entire session—President Newcomb—1.

On Alderman Wallace's motion, Alderman Foster was called to the chair, as president *pro tempore*.

The proceedings of the adjourned session, held August 1st, 1877, having been printed, and placed on the desks of the Aldermen, the reading of the same was dispensed with.

The City Attorney submitted the following report; which was received :

Indianapolis, August, 8 1877.

To the President and Board of Aldermen of the City of Indianapolis :

Gentlemen :—A resolution, introduced by Alderman Krug, in relation to the control and management of Military Park, was referred to me, with instructions "to report the legal *status* of Military Park."

I would report that I have given the matter some examination, and find that, in 1868, upon a petition of a number of citizens, the Common Council of the city, with the approval and consent of the Auditor and Treasurer of State, made an appropriation, and took steps to improve Military Park, by fencing and lighting with gas, planting trees, etc., etc. That, from that time on for several years, large sums of money were expended by the city in improvements, and it has ever since been used as a public park, and been under the control and management of the city. That said improvements were made under the direction of a Board of Commissioners appointed by the Council. That the expense of the original improvements were paid by the city, excepting a small part that was contributed in the beginning by citizens residing in that part of the city. That the expense of lighting, policing, and keeping in repair has been borne by the city ever since that time. The city, under her charter, is empowered to provide for the protection of the public parks, and to prescribe the manner in which, and the persons by whom, the same may be used and occupied; and, also, to regulate the lighting of the same, the planting of trees therein, and protecting and maintaining the same.

I am, therefore, of the opinion that all public parks in the city are under the management and subject to the control of the city government, as long as they are used as public parks, and the expense of lighting and keeping them in repair is paid by the city, and that, under the general police powers of the city, it would be the duty of the city to regulate and control all public parks and grounds.

The fact that the title to the real estate is in the State does not affect the case, until the Legislature shall, by law or joint resolution, declare that the property shall no longer be used for park purposes, or direct how and in what manner it shall be managed and controlled.

I have been unable to find any act of the Legislature empowering the Auditor of State to control or manage the property known as "Military Park," or to appoint any one else to do so; and I am of the opinion that he has no such power by virtue of his office; and, therefore, he is not empowered to assume the control of the park. It is, therefore, my opinion that Military Park, so long as it is lighted and kept in repair at the expense of the city, and is used as a public park, must be under the control and management of the city or her officers, until the Legislature shall direct otherwise.

Respectfully submitted,

R. O. HAWKINS, City Attorney.

The resolution, upon which above report is based [see page 134, *post*], was then read, and laid upon the table.

MESSAGE FROM THE COMMON COUNCIL.

The following message from the Common Council was duly received :

Indianapolis, August 8, 1877.

To the President and Members of the Board of Aldermen :

Gentlemen :—I herewith transmit certain papers, favorably passed upon by the Common Council, at its last regular session, held August 6th, 1877, for your action upon same.

Respectfully,

BENJ. C. WRIGHT, City Clerk.

PAPERS FROM THE COMMON COUNCIL—ACTION UPON.

Report from City Clerk of amount of orders issued on the City Treasury during month of July, 1877 [see Council Proceedings, page 306], was read, and the action of the Common Council, in receiving said report, was duly concurred in.

Report from City Treasurer, showing receipts and disbursements during July, 1877 [see Council Proceedings, page 307], was read, and referred to the Aldermanic Committee on Finance.

Report from City Assessor, giving his annual statement of the taxable property of the city, for the year 1877 [see Council Proceedings, page 308], was read, and duly received.

Report from Street Commissioner, of work done in his Department, from July 2d, to August 1st, 1877 [see Council Proceedings, page 308], was read, and referred to the Aldermanic Committee on Streets and Alleys.

Report from Committee on Judiciary and City Attorney, adverse to the memorial of the citizen property owners, asking city to assume the expense of the defense in the Noble Heirs' suits [see Council Proceedings, page 227, for memorial, and page 326 for

above report], was read, and the action of the Common Council, in concurring in said report, was duly approved.

Report from Committee on Streets and Alleys—viz., its second, third, and fourth clauses—[see Council Proceedings, page 327], was read, and the action of the Common Council, in concurring in said clauses, was duly approved.

Concurrent resolution, requiring the owners of lots 82, 83, 84, 85, 64, 87, 88, 89, 56, 57, and 67, in Frederick Yeiser's guardian's subdivision and addition, to fill or drain the same [see Council Proceedings, page 323], was read, and the same was duly adopted by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Concurrent resolution, requiring the owners of lot 20, in Thomas A. Hendricks's subdivision of a part of out-lot 99, to fill or drain the same [see Council Proceedings, page 323], was read, and the same was duly adopted by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Motion, to instruct the City Marshal to notify the Street Railway Company to repair between their rails, from East to Dillon street [see Council Proceedings, page 326], was read, and the action of the Common Council, in adopting such motion, was duly concurred in.

Motion, to instruct the City Marshal to notify the Street Railway Company to change their tracks to grade of street, at the corner of Fletcher avenue and Pine street [see Council Proceedings, page 326], was read, and the action of the Common Council, in adopting such motion, was duly concurred in.

The following ordinances were read the first time :

Ap. O. 55, 1877—An ordinance appropriating money for the payment of sundry claims against the City of Indianapolis, on account of Fire Department.

Ap. O. 56, 1877—An ordinance appropriating money for the payment of sundry claims against the City of Indianapolis on account of City Hospital and Branch.

Report from Board of Police, transmitting and explaining appropriation ordinances Nos. 57 and 58, 1877 [see Council Proceedings, page 316], was read, and duly received.

The following ordinances were then read the first time :

Ap. O. 57, 1877—An ordinance appropriating money for the payment of sundry claims against the City of Indianapolis, on account of Station Houses.

Ap. O. 58, 1877—An ordinance appropriating money for the payment of Special Patrolmen, employed July 26th and 27th, 1877.

The following ordinances were then read the first time :

Ap. O. 59, 1877—An ordinance appropriating money for the payment of sundry claims against the City of Indianapolis.

Ap. O. 60, 1877—An ordinance appropriating money on account of City Dispensary.

Ap. O. 61, 1877—An ordinance appropriating money for the payment of sundry claims against the City of Indianapolis, on account of Printing, Stationery, and Advertising.

Appropriation ordinance No. 55, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Appropriation ordinance No. 56, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Alderman Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Appropriation ordinance No. 57, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Appropriation ordinance No. 58, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

[Aldermen McGill and Stratford stated that their votes in the affirmative, as last above given, were given under protest, and requested such fact to be entered of record.]

Negative—None.

Appropriation ordinance No. 59, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Appropriation ordinance No. 60, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Appropriation ordinance No. 61, 1877, was then read the second and third times, and passed by the following vote :

Affirmative—Aldermen Chandler, Coburn, Foster, Krug, McGill, Snider, Stratford, Wallace, and Wiles—9.

Negative—None.

Alderman Stratford offered the following motion ; which was adopted :

WHEREAS, The appropriation of two hundred and fifty dollars for the repair of Virginia avenue, from Louisiana street to Dillon street, has been exhausted, and there still remains about two squares in very bad condition—in fact, the worst part of the street; therefore,

Moved, That we recommend that the Council appropriate a sufficient sum to finish to said street.

On motion, the Board of Aldermen then adjourned until Wednesday, August 15th, 1877, at 8 o'clock P. M.

R. S. FOSTER, President *pro tem.*

Attest :

GEO. T. BREUNIG,

Clerk of Board of Aldermen.