

PROCEEDINGS OF BOARD OF ALDERMEN.

REGULAR SESSION—JANUARY 26, 1891.

The Board of Aldermen of the City of Indianapolis, met in the Aldermanic Chamber, Monday evening, January 26th, A. D. 1891, at 8:00 o'clock, in regular session.

PRESENT—Hon. Isaac Thalman, President of the Board of Aldermen, in the Chair, and Aldermen Blackwell, Breunig, Farrell, Lant, Reilly, Reinecke, Reynolds, Smith, and Smither—10.

ABSENT—None.

MESSAGES AND PAPERS FROM THE COMMON COUNCIL.

The following message was read:

To the President and Members of the Board of Aldermen:

Gentlemen:—I submit herewith the following papers for your consideration, favorably passed upon by the Common Council at its regular session held January 19th, 1891.

For the Common Council:

E. B. SWIFT, City Clerk.

The annual reports of the City Clerk (see pages 40-43, *ante*), showing amount of warrants drawn during the year 1890, and a tabular statement showing the bonded indebtedness of the city, were read and received.

The annual report of the Treasurer for the City, (see page 43, *ante*), was read and received.

The report of the City Civil Engineer, accompanied with estimates (see pages 38-39, *ante*), was read, and the action of the Common Council thereon, concurred in.

The following estimate resolutions (see page 39, *ante*), were read:

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the accompanying fourth and final estimate in behalf of Augustus Bruner, for constructing a brick sewer, three (3) feet internal diameter, in and along Pennsylvania street, from the north line of Pratt street to and connecting with the Massachusetts avenue sewer at Massachusetts avenue, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen of said city; and that the property owners are hereby required to pay the sums set opposite their respective names.

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the accompanying first and final estimate in behalf of Michael Flaherty—John Johnson, assignee—for grading and graveling Sanders street and sidewalks, from

Wright street to East street, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen of said city; and that the property owners are hereby required to pay the sums set opposite their respective names.

And they were concurrently adopted by the following vote :

AYES, 10—viz: Aldermen Blackwell, Breunig, Farrell, Laut, Reilly, Reinecke, Reynolds, Smith, Smither, and President Thalman.

NAYS—None.

The report of the Committee on Accounts and Claims (see page 43, *ante*), in relation to making contract with Thomas Taggart, Auditor, for making tax duplicate for street improvements, was read, and the action of the Common Council thereon, concurred in.

The report of the Committee on Finance, accompanied with the following resolution (see pages 43-44, *ante*), was read :

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the Finance Committee of said Council be, and they are hereby, authorized and directed to negotiate a temporary loan or loans in the name and on behalf of said city, in anticipation of the revenue of 1890, for any sum or sums not exceeding in the aggregate thirty-five thousand dollars, for any term of time not extending beyond the 15th day of April, 1891, and at a rate of interest not exceeding six per cent. per annum. Said loan or loans to be made and the obligations of the city given therefor from time to time, as the needs of the city may require. That the Mayor and City Clerk be, and they are hereby, authorized and directed to execute the proper bonds or obligations of said city for the amounts so borrowed, and for the payment of such bonds or obligations, the faith of the City of Indianapolis is hereby irrevocably pledged.

Which report was concurred in, and the resolution concurrently adopted, by the following vote :

AYES, 10—viz: Aldermen Blackwell, Breunig, Farrell, Laut, Reilly, Reinecke, Reynolds, Smith, Smither, and President Thalman.

NAYS—None.

The following motion (see page 44, *ante*), was read, and concurrently adopted :

WHEREAS, Doubt has arisen as to when the right of the Citizens' Street Railroad Company to occupy the streets of this city expires, and also whether, under the now existing laws, the Legislature has the right to compel the said Citizens' Street Railroad Company to bear its proportion of the costs of street improvement; therefore, be it

Moved, That the City Attorney be, and is hereby, directed to furnish to this body an opinion in writing upon each of said two questions.

The following message was read :

To the President and Members of the Board of Aldermen :

Gentlemen :—I submit herewith the following papers for your consideration, favorably passed upon by the Common Council at its special session held January 20th, 1891.

For the Common Council :

E. B. SWIFT, City Clerk.

The following petition (see page 48, *ante*), was read, and the action of the Common Council thereon, concurred in:

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—I herewith respectfully petition your honorable bodies to grant me the use of Tomlinson Hall (at your ordinance price,) for the purpose of holding a wild horse training contest between myself and Prof. Gleason, to be held each day from about the 2d to the 18th day of February.

If permission be granted me, I hereby propose to lay an extra plank floor of pine, which will entirely cover the original floor, and take all other necessary precautions to protect the building from any damage; and hereby agree to file a bond to the amount of one thousand dollars with the City Clerk as security that the Hall shall be left in as good condition as when taken.

DR. T. W. MCGUINN.

The following resolution (see pages 48-49, *ante*), was read, and the action of the Common Council thereon, concurred in:

WHEREAS, The ladies having the management and control of the Industrial School for the City of Indianapolis, which has for its object the education and improvement of the poor children of the city, are desirous of giving a course of three or four lectures for the benefit of said school; therefore

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the use of Tomlinson Hall be tendered to the members of the Industrial School of the City of Indianapolis, upon the condition that they shall pay the gas bill and janitor hire arising from the use by them of such Hall for such purpose, the same to be limited to four lectures. The City Clerk is hereby authorized and directed to perfect the details of such arrangement, and to agree with the managers of said school upon such dates as shall not conflict with other persons who shall desire to rent said Hall.

The following motion (see page 49, *ante*), was read and concurrently adopted:

That H. Weinberger be granted permission to cut the hole petitioned for, providing he comply with the provisions of General Ordinances now in force governing excavations in streets paved with asphalt, etc.

The following message was read:

To the President and Members of the Board of Aldermen:

Gentlemen:—I submit herewith the following papers for your consideration, favorably passed upon by the Common Council at its adjourned session held January 24th, 1891.

For the Common Council:

E. B. SWIFT, City Clerk.

The report of the City Attorney (see page 51, *ante*), in relation to the employment of additional counsel to consider matters relative to the Citizens' Street Railroad Company's franchise, was read, and concurred in.

The following motion (see page 52, *ante*), was read, and the action of the Common Council thereon, concurred in:

That the use of Tomlinson Hall be tendered to the ladies having in charge "The School for Orphan Girls" for a supper in aid of such institution, to be given on the night of January 29th, 1891, upon condition that the management of said School shall pay the actual expenses attending the use of said Hall.

The following motion (see page 52, *ante*), was read and concurrently adopted :

That the Street Commissioner be, and he is hereby, directed to forthwith notify the Belt Railroad Company to repair their crossing at the Greenleaf Foundry, on Oak Hill.

The following entitled ordinance (passed by the Common Council,) was read the first time :

G. O. 2, 1891—An ordinance providing for the issuance of bonds to J. W. Hudson, contractor, for balance in payment for the improvement of King street, from Archer street to the east line of Coffin's east Vermont street addition.

On motion by Alderman Breunig, the Rules were suspended for the purpose of placing G. O. 2, 1891, on its final passage, by the following vote :

AYES, 9—viz: Aldermen Blackwell, Breunig, Farrell, Laut, Reilly, Reinecke, Reynolds, Smith, and President Thalman.

NAYS—None.

G. O. 2, 1891, was then read the second and third times and passed, by the following vote :

AYES, 10—viz: Aldermen Blackwell, Bruenig, Farrell, Laut, Reilly, Reinecke, Reynolds, Smith, Smither, and President Thalman.

NAYS—None.

REPORTS FROM CITY OFFICERS.

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

Indianapolis, Ind., Jan. 26, 1891.

To the President and Members of the Board of Aldermen :

Gentlemen :—At your last meeting you submitted to me for answer the following inquiry :

“Must a resolution, seeking to open or vacate a street, alley, highway or water course, be referred to a proper committee in the Board of Aldermen as well as to a proper committee of the Common Council, before it shall be referred to the City Commissioners?”

The charter of the city (R. S. 1881, Section 3167,) requires that, before any matter of the opening, laying out or altering of any street, alley, highway or water course, or of the vacation thereof, shall be referred to the City Commissioners, the Common Council shall refer the same to an appropriate committee, who shall examine the matter, and report at the next meeting of the Common Council, etc.

There is no uncertainty about the foregoing provision. It became a law in May, 1875. At this time there was no Board of Aldermen.

In 1881 the general assembly of the city passed a law (R. S. 1881, Section 3055) which requires that every ordinance, order, resolution or motion, for the appropriation of money or for the government or regulation of such city, shall originate in the Common Council; and upon all questions, except as herein provided, action of the Common Council and Board of Aldermen shall be separate and distinct.

This provision clearly requires the full and complete action of each branch of the legislative department of the city. Whatever precaution, as to the manner of legislating, is thrown about the conduct of the Common Council, applies, with equal force, to the Board of Aldermen. My conclusion, therefore, is that all resolutions

seeking to open or vacate streets, alleys, etc., must not only be referred to a proper committee in the Common Council, but likewise in the Board of Aldermen.

On the matter of the petition of certain owners of real estate along the line of the alley between Tennessee and Mississippi streets, and north of Eighth street, asking for the opening and extension, to a width of thirteen and one-half feet, the alley between Tennessee and Mississippi streets, from Ninth street south to Seventh street, etc., I find the record to be substantially as follows:

The resolution for the opening of said alley was introduced in the Common Council on November 17, 1890.

On December 1st, 1890, the Committee on Streets and Alleys of the Common Council, to whom the same had been referred, made report thereon, recommending that it be referred to the City Commissioners for the assessment of benefits and damages. The report was adopted and the resolution sent to the Board of Aldermen for its concurrence.

On December 8th, 1890, the Board of Aldermen referred the same to their Committee on Streets and Alleys. On December 15, 1890, a motion was made in the Common Council and adopted, reconsidering its action of December 1st. The Board of Aldermen was not notified of such action by the Common Council. On December 22, 1890, the Board of Aldermen took no action. On January 5, 1891, the Common Council re-adopted their original action of December 1st, without first reconsidering their vote of December 15, and without having the resolution before them. On January 12, 1891, the Board of Aldermen took no action.

It is well established by the law of parliamentary practice, that the action of one branch of a legislative body, relating to a matter at the time in the hands of the other branch of such body, requires some notification to be given—either by message, conference or committee. Under a proper rule, doubtless, a printed or properly authenticated copy of the Proceedings of one branch duly transmitted to the other, might be sufficient notice. As it appears no notice of the action of the Common Council had on December 15, reconsidering their vote of December 1st, was given to the Board of Aldermen. Under such circumstances, the vote of the Common Council would have no binding force upon the Board of Aldermen. (See Section 1274, Cushing's Law and Practice of Legislative Bodies.)

The subsequent action of the Common Council had on January 5, re-adopting their vote of December 1st, was likewise ineffectual, for the reason that their action last taken, was in the absence of any papers relating to the subject upon which the vote was had.

Upon the record presented, my opinion is that the resolution as first passed by the Common Council on December 1st, 1890, is now properly in the hands of the Committee on Streets and Alleys of the Board of Aldermen to which it was referred, and that this body may take action thereon whenever report is made by such committee.

Most respectfully submitted,

LEON O. BAILEY, City Attorney.

REPORTS FROM STANDING COMMITTEES.

The Committee on Contracts and Bridges, through Alderman Smither, submitted the following report; which was read:

2 "That the City Civil Engineer be, and he is hereby, directed to advertise for proposals for the construction of a stone wall on the east bank of Pogue's Run, from the south line of McCarty street to the south line of McCauley street."

To the President and Members of the Board of Aldermen:

Gentlemen:—Your Committee on Contracts and Bridges, to whom was referred the motion adopted by the Common Council directing the Engineer to advertise for proposals for the construction of a stone wall on the east bank of Pogue's Run, from the south line of McCarty street to the south line of McCauley street recommend that the Council action thereon be not concurred in.

Respectfully submitted,

Theo. F. Smither;
Geo. T. Breunig,
H. W. Laut,
Committee on Bridges.

And the report was concurred in, by the following vote :

AYES, 8—viz: Aldermen Breunig, Farrell, Laut, Reinecke, Reynolds, Smith, Smither, and President Thalman.

NAYS, 1—viz: Alderman Blackwell.

The Committee on Railroads, through Alderman Reinecke, submitted the following report:

“Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That consent, permission and authority is hereby given and granted to the Citizens’ Street Railroad Company of Indianapolis, to use tramway steam motors in operating its cars on Washington street, in said city, from the east corporation line of said city to Illinois street, corner of Illinois and Washington streets: Provided, the cars of said company shall not run at a rate of speed exceeding six miles an hour between Illinois street, on Washington street, to Noble street.

Provided, further, That the consent, permission and authority hereby given and granted, shall cease and terminate at the pleasure and will of said Common Council and Board of Aldermen; and the said Citizens’ Street Railroad Company shall at once cease to use said steam motors at any time when it is served with notice of the passage of a resolution by said Council and Board of Aldermen directing it so to do.”

To the President and Members of the Board of Aldermen:

Gentlemen:—Your Committee would recommend that the above resolution do not pass.

Respectfully submitted,

Julius F. Reinecke,

M. M. Reynolds,

M. H. Farrell,

Committee on Railroads.

And the report was concurred in, by the following vote :

AYES, 10—viz: Aldermen Blackwell, Breunig, Farrell, Laut, Reilly, Reinecke, Reynolds, Smith, Smither, and President Thalman.

NAYS—None.

The Committee on Streets and Alleys, through Alderman Farrell, submitted the following report :

To the President and Members of the Board of Aldermen:

Gentlemen:—Your Committee to whom was referred the following, recommend that the action of the Common Council be concurred in.

Respectfully submitted,

M. H. Farrell,

John J. Blackwell,

H. B. Smith,

Committee on Streets and Alleys.

That the Street Commissioner be directed to lay a double walk stone crossing across State avenue, at the north line of Washington street.

That the Street Commissioner be directed to lay a double walk stone crossing across Market street, on the east line of Cruse street; also, across Market street, at the west line of Hanna street; also, across Pine street, on the north line of New York street.

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—Your Committee on City Improvements make the following report for your approval :

Subject to your order of November 17th and 24th, 1890, the City Civil Engineer advertised for proposals to be received by the above Committee January 3d, 1891,

for laying a 24-inch sewer pipe line from a point 436 feet north of the intersection of Pennsylvania and Fifteenth streets west to Meridian street, thence north to Fall Creek. Bids were received, opened and found to be as follows:

W. C. Allen, for man-holes	\$30 00	sewer pipe, per foot . . .	\$1 61
Derk DeRuiter, "	22 00	" "	1 55
Gansberg & Roney "	35 00	" "	1 55
Augustus Bruner "	"	" "	1 40
William Bossert "	"	" "	1 35
Jennings & Co. "	"	" "	1 31
Roney & Dunning "	"	" "	1 30
Robt. Kennington "	"	" "	1 25

Robert Kennington being the lowest and best bidder, we recommend he be awarded the contract, and herewith submit Kennington's contract and bond, and recommend its acceptance and approval.

Respectfully submitted,

M. D. Yontz,
M. J. Murphy,
John R. Pearson,
Committee on City Improvements.

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis That the petition of A. J. Venn, B. F. Schmid and others, praying for the opening and extension of a thirteen and one-half foot alley between Tennessee and Mississippi streets, from Ninth street south to Seventh street, as per plat accompanying said petition, and made a part thereof and of this resolution, and marked exhibit "A," as prayed for in said petition, be referred to the Board of City Commissioners, with instructions to assess benefits and damages, and to make due report to the Common Council and Board of Aldermen; the City Commissioners to return all petitions, plats and notices.

The City Clerk is hereby instructed to issue the proper notices and the Superintendent of the Metropolitan Police Force is hereby directed to serve said notices on said City Commissioners and upon the property owners.


Provided, That before the Clerk issue the said notices to the said City Commissioners a bond shall be filed with the said City Clerk, to the approval of the Mayor, guaranteeing the payment of all costs and charges of said Commissioners in this matter.

Which report was received, and the motions, report and resolution adopted, by the following vote:

AYES, 10—viz: Aldermen Blackwell, Breunig, Farrell, Laut, Reilly, Reinecke, Reynolds, Smith, Smither, and President Thalman.

NAYS—None.

On motion, the Board of Aldermen then adjourned.


President.

Attest:



Clerk.