

PROCEEDINGS

OF THE

COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE
CITY OF INDIANAPOLIS, }
SATURDAY, JULY 23, 1870, 7½ 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 Cottrell, Harrison, Heckman, Kahn, Kennington,
Locke, Marsee, Newman, Pyle, Reagan, Shepherd, Thalman, Thoms,
Weaver, Whitsit, Wiles and Woodburn—17.

Absent—Councilman Brown—1.

The proceedings of the regular session held July 16, 1870, were
read and approved.

By consent, Mr. Wiles presented the following petition :

INDIANAPOLIS, July 23, 1870.

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

GENTLEMEN:—The Indianapolis and St. Louis Railroad Company, respectfully represent that they desire the privilege to construct two side tracks on the extension of West Georgia street, between West and Helen streets.

The use of these side tracks will do away with the necessity of hauling a large amount of cars through the city on the Union track, and will offer facilities for manufactories in a portion of the city where dwellings will probably not be desired.

Herewith is submitted the consent of over two-thirds of the property-holders on said street.

Your early and favorable action on this petition, is respectfully solicited.

Respectfully submitted,

INDIANAPOLIS & ST. LOUIS RR. CO.,

By T. A. MORRIS, President.

The undersigned, owners of property along the west end of Georgia street, Indianapolis, between West street and White River, hereby consent that the Indianapolis and St. Louis Railroad Company may lay down and use a side track on either side of their main track, between West street and the west line of Helen street.

Respectfully submitted,

IND. & ILL. CEN. RR. CO.,

By J. K. WARREN, Pres't

WM. SHEETS,

S. A. FLETCHER.

Which was received.

Mr. Wiles introduced General Ordinance No. 39, 1870, entitled :

AN ORDINANCE authorizing the Indianapolis and St. Louis Railroad Company to construct and maintain side tracks on West Georgia street, and prescribing the terms thereof.

Which was read the first time.

And referred to the Committee on Railroads.

The first business in order being the motion made by Mr. Brown, July 16, 1870, to reconsider the vote awarding the contract for building the South street and Kentucky avenue Sewer, to Wirth and Company, the same was taken up, and freely discussed, pro and con, and the motion to reconsider was defeated by the following vote :

Those who voted in the affirmative were, Councilmen Harrison, Kahn, Newman, Reagan, Thalman, Weaver, Wiles and Woodburn—8.

Those who voted in the negative were, Councilmen Cottrell, Heckman, Kennington, Locke, Marsee, Pyle, Shepherd, Thoms and Whit sit—9.

By consent, Mr. Thalman offered the following report :

INDIANAPOLIS, July 23, 1870.

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

GENTLEMEN:—Your Committee on Streets and Alleys to whom was referred sundry papers, respectfully report :

First.—A remonstrance was referred to your committee signed by Charles Nolting and Louisia Armentrout, remonstrating against the improvement of the alley running between Pratt and St. Joseph street, and Alabama and Delaware street. Having examined said alley, we think the same should be improved, and that the ordinance be passed as contemplated.

Second.—An ordinance was also referred to your committee for the grading and graveling of the west alley running north and south through out-lot 121, between Norwood and McCarty streets. Believing said alley should be improved, we herewith report back the said ordinance and recommend its passage.

Third.—A petition was also referred to your committee signed by Charlotte O'Neal and Martha Allen, asking permission to plank the sidewalk in front of their property, on New Jersey street. We would recommend that they have permission to do so, provided they do so according to stakes and directions of the Civil Engineer.

Fourth.—A petition was also referred to your committee signed by William Braden, D. Root, Nathan Kimball and others, asking the Council to have the east gutter of Pratt street on Illinois street, covered with plank. We have examined the same, and recommend that the Street Commissioner be directed to place cement pipe in at the crossing of Pratt with Illinois street on the east and west side.

Fifth.—A bill was also referred to your committee in favor of Joseph Kruger, for grading and paving in front of private alley in square 57, for \$27 60. As the City Attorney is of the opinion that the city is liable for said improvement, we recommend that the city pay said Joseph Kruger \$24 10, he having an item in his bill of \$2 50 cents for moving five loads of ashes, which, in our opinion should not be paid, as he done the paving torn up by a contractor to whom was awarded the contract, said contractor having abandoned the job, he certainly did not leave the said ashes on the sidewalk, but in the alley west of the sidewalk, and if the property holders on said alley ordered him to take the ashes away, let them pay him for it.

Sixth.—Your committee would recommend that the drainage on First street be made as follows, to-wit:

From Tennessee east to Illinois street, surface drainage, and west from Tennessee street to the Railroad, on the north side, by making a ditch eight inches below the surface drainage, and that cement pipe, fifteen inches in size, be placed at the crossing of Mississippi street; also, that the gutters on both sides be bowldered at the expense of the property holders along the line of said improvement.

Seventh.—A petition was also referred to your committee asking that ten feet of ground on the north side of Wilkins street, between Meridian and Chestnut street, be vacated, in order that said Wilkins street may be of a uniform width from Chestnut to Meridian street of fifty feet. We would recommend that the prayer of the petitioners be granted, and that the City Clerk give the requisite notice.

Eighth.—A petition was referred to us, asking that Mississippi street be opened and widened from Merrill street south to the Corporation line. Having examined said street, we do not think it advisable to have the same done at this time, as there is a probability of the south part of the Canal being abandoned, and a change made in the bed of Pogue's Run, which would make a great difference in assessing benefits and damages, and a great difference in the cost to the city. We recommend that the prayer of the petitioners be not granted.

Ninth.—A remonstrance against paving with brick the east sidewalk of East street between Washington street and Pogue's Run, was referred to us. Believing the improvement necessary, we report in favor of passing the ordinance as contemplated.

Tenth.—A petition was referred to us from property owners on Missouri street, between McCarty and Merrill streets, asking that the same be graded and graveled. As the street needs improving, we would recommend the passage of an ordinance to have the work done.

Eleventh.—A motion was referred to us asking that the grade of Severn alley be made to slope each way from the center, between Chesapeake alley and Georgia street. We recommend that the grade be so made, and that the Engineer set the stakes accordingly.

Twelfth.—Your committee have also located the following flag-stone crossings, (thirty-five in number.)

- One across Washington street from west corner of West.
- One across Washington street from west corner of Mississippi.
- One across Washington street from east corner of Tennessee.
- One across Washington street from west corner of East.
- One across Washington street from east corner of New Jersey.
- One across Washington street from east corner of Alabama.
- One across Washington street from west corner of Delaware.
- One across Tennessee street from north corner of Washington.
- One across Tennessee street from south corner of Washington.
- One across Maryland street from west corner of Virginia avenue.
- One across Delaware street from west corner of Virginia avenue.
- Two across Delaware street from north and south corners of Washington.
- One across Pennsylvania street from north corner of Market.
- One across Pennsylvania street from south corner of Michigan.
- Two across Market street from east and west corners of Pennsylvania.
- Two across Market street from east and west corner of Illinois.
- Four on Circle street.
- Two on Meridian and Ohio streets.
- One on Meridian and Maryland streets.
- One on Meridian and Georgia streets.
- One on Meridian and Louisiana streets.
- One across East street on south side of Washington.
- One across New Jersey street on south side of Washington.
- One across New Jersey street on north side of Massachusetts avenue.
- One across Ohio street on east side of Meridian.
- One across Michigan street on east side of Pennsylvania.
- One across Alabama street on north side of Massachusetts avenue.
- One across Louisiana street on west side of Meridian.

Respectfully submitted,

ISAAC THALMAN, }
 JOHN L. MARSEE, } Committee.
 C. HECKMAN, }

Which was concurred in.

Also, the following report :

INDIANAPOLIS, July 23, 1870.

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

GENTLEMEN:—Your Committee on Streets and Alleys to whom was referred a petition of the Indianapolis Glass Works, for the vacation of the second alley west of Sharpe street, and ten feet in width running between lots 11, 12, 13, 14, 15 and 16, in Hendricks' subdivision of lots 13 and 14 of Eckert's original subdivision and lot 15 in same subdivision of out-lot 131, and running east and west from Eckert street to first thirty foot alley running north and south, between Sharpe and Merrill streets, have had the subject under consideration, and report that they find that the petitioners have given the regular notice, and that no objection by remonstrance or otherwise, has been made. Your committee, therefore, recommend that an order of vacation be made by the Common Council, in pursuance of the prayer of the petitioners.

Respectfully submitted,

ISAAC THALMAN, }
JOHN L. MARSEE, } Committee.
CHRIS HECKMAN, }

Comes now, the petitioners, and produce proof that they have given the legal notice of the pendency before the Common Council of the city of Indianapolis, of their petition to vacate the second alley south of Sharpe street, and ten feet in width, running between lots 11, 12, 13, 14, 15 and 16, in Hendricks' re-subdivision of lots 13 and 14, of Eckert's original subdivision of out-lot 131, and running east and west from Eckert street to first thirty foot alley running north and south between Sharpe and Merrill streets, by publication in the Daily Indianapolis Evening Commercial, a newspaper of general circulation published in the city of Indianapolis.

NOTICE OF VACATION.—Notice is hereby given of the pendency of a petition of the Indianapolis Glass Works before the Common Council of Indianapolis, for the vacation of the second alley south of Sharpe street, and ten feet in width, running between lots eleven, twelve, thirteen, fourteen, fifteen and sixteen in Hendrick's re-subdivision of lots thirteen and fourteen of Eckert's original subdivision, and lot fifteen in same subdivision of out-lot 131, and running east and west from Eckert street to first 30 foot alley running north and south, between Sharpe and Merrill streets.

INDIANAPOLIS GLASS WORKS,

By FREDERICK RITZNER.

STATE OF INDIANA, }
MARION COUNTY. } ss.

Personally appeared before the undersigned a Notary Public in and for the county and State aforesaid, Mandeville G. Lee, of the *Commercial*, who being

duly sworn says that the notice of petition for vacation, a copy of which is annexed, of second alley south of Sharpe street, was published in the *Indianapolis Commercial* three consecutive weeks, Tuesday's June 14, June 21, and June 28.

MANDEVILLE G. LEE.

Manager Commercial Co.

Subscribed and sworn to before me, this 1st day of July, 1870.

[SEAL.]

JOHN W. BLAKE, Notary Public,
Marion County Indiana.

And, also, by posting up copies of said notice in the alley above referred to in three conspicuous places, which proof is as follows, to wit :

NOTICE OF VACATION.—Notice is hereby given of the pendency of a petition of the Indianapolis Glass Works before the Common Council of Indianapolis, for the vacation of the second alley south of Sharpe street, and ten feet in width, running between lots eleven, twelve, thirteen, fourteen, fifteen and sixteen, in Hendricks' re-subdivision of lots thirteen and fourteen in Eckert's original subdivision, and lot fifteen in same subdivision of out-lot 131, and running east and west from Eckert street to first 30 foot alley running north and south, between Sharpe and Merrill streets.

INDIANAPOLIS GLASS WORKS,

By FREDERICK RITZNER.

STATE OF INDIANA, }
MARION COUNTY, } ss.

Personally appeared before me, the undersigned, who being duly sworn upon his oath says, that he has posted in three conspicuous places on the said alley proposed to be vacated, in said city of Indianapolis, copies of the above notice, of which the above is a true copy.

H. HARTTRADT.

Subscribed and sworn to before me, this 9th day of July, 1870.

[SEAL.]

JOHN G. WATERS, Notary Public.

And no person objecting to said vacation, and it appearing to the satisfaction of the Common Council that the prayer of the petitioners should be granted, it is therefore, ordered and decreed by the Common Council of the city of Indianapolis, that the second alley south of Sharpe street, and ten feet in width, running between lots 11, 12, 13, 14, 15 and 16, in Hendricks' re-subdivision of lots 13 and 14 of Eckert's original subdivision and lot 15 in same subdivision of out-lot 131, and running east and west from Eckert street to first 30 foot alley running north and south, between Sharpe and Merrill street be and the same is hereby vacated.

Which was concurred in.

Mr. Newman made the following report :

INDIANAPOLIS, July 23, 1870.

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

GENTLEMEN:—The Committee on the Judiciary and the City Attorney, to whom was referred certain questions in regard to the number of feet to be deducted, if any, on account of the Street Railway on North New Jersey street, and second, whether it is liable for deductions if made, or the property holders on the line of said street improved would be liable for street improvements where the track of said Street Railway runs, beg leave to report the opinion of the City Attorney, in which they concur, or at least acquiesce, and beg leave to be discharged from the further consideration of the subject.

Respectfully submitted,

JOHN S. NEWMAN,
TEMPLE C. HARRISON, } Committee.

Which was concurred in.

Also, the following report :

INDIANAPOLIS, July 23, 1870.

Hon. John S. Newman, Chairman Judiciary Committee :

DEAR SIR:—The communication handed me contains the following questions:

1. The number of feet to be deducted, if any, on account of Street Railway track or tracks, whether two feet on the outside of each track, or only the portion between the tracks ?
2. Whether the city is liable for the deduction if made, or whether the property holders on the line of street improved, be liable ?

To the first I answer: The ordinance provides that the space between the rails, and for two feet on each side of each of the rails, shall be improved by the Railway Company. It is clear, therefore, that the deductions to be made if any, are for the space enclosed between the rails, and that extending two feet beyond each rail.

To the second I answer: That as the common law would impose on the Railway Company the liabilities of repairing, and keeping in repair, the street, and, as by a former ordinance, the Council have also imposed this liability, I think it is not now competent for that body to impose such liability upon the property owners. The question, however, I do not consider free from doubt, but I think the view I here express, the correct one. If, therefore, Council assume to relieve the Railway Company from the liability it must fall upon the city and not the property owners.

It may be proper to add that in opinions heretofore given, I have expressed a doubt as to the power of the Common Council to release the Railway Company from this liability, and I am still inclined to think they have no such power.

Respectfully,

B. K. ELLIOTT, City Attorney.

Which was concurred in.

Mr. Whitsit offered the following motion :

That Henry Brocksmitt and Christopher Heidenriker, be allowed to grade and gravel the alley lying between lots 220 and 221, in out lot 97, the same to be done at their own expense, and under the direction of the Civil Engineer.

Which was adopted.

On motion by Mr. Wiles, the Civil Engineer was instructed to report a partial estimate for laying Nicholson pavement on Delaware street.

Mr. Heckman presented the following remonstrance :

INDIANAPOLIS, July 23, 1870.

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

GENTLEMEN:—The undersigned, owners of the real estate fronting on Washington street, between the intersection of the Michigan road and the corporation line east, respectfully remonstrate against cutting down the sidewalks so low, but to establish the grade according to the first profile made by the Civil Engineer, which is some eight or ten inches higher than what is now established. It will cause unnecessary expense and damage our property seriously. We think the grade at present is very near right and most of the property is above the present sidewalks. The Engineer's first profile cut it down from ten to eighteen inches, and we think that plenty, and hope you will agree with us and grant our wishes.

Respectfully submitted,

CHARLES G. FRENCH,

C. F. W. BRANDT,

W. F. PIEL,

A. F. DEMMEGGER,

And 18 others.

Which was referred to a special committee composed of Councilmen Thalman, Thoms and Reagan.

Mr. Shepherd introduced Special Ordinance No. 149, 1870, entitled :

AN ORDINANCE to provide for grading and bowldering the first alley west of Mississippi street, on the south side of Washington street, running from Washington to Cumberland street.

Which was read the first time.

Mr. Weaver introduced General Ordinance No. 40, 1870, entitled :

AN ORDINANCE granting a license to Daniel Shelby to keep and maintain a concert-room, and give theatrical representations, in Indianapolis.

Which was read the first time.

Mr. Reagan offered the following motion :

That Thomas Wren be awarded the contract to clean out Pogue's Run between the stone abutments on Tennessee street, and that the Civil Engineer be instructed to give the amount of yards of gravel, at the rate of forty cents per yard, to be moved on the south side of said run and said street.

Which was referred to Committee on Streets and Alleys.

His Honor, the Mayor, presented the following :

INDIANAPOLIS, July 23, 1870.

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

GENTLEMEN:—The undersigned respectfully tenders his resignation of the inspectorship of the block pavement now being laid upon North Delaware street, (to which position I was elected by your honors,) for the reason that the compensation allowed is not equal to the duties required. Accept my thanks for your intended kindness.

Respectfully submitted.

JOHN KNIGHT.

On motion by Mr. Wiles, Mr. Knight was requested to continue the superintendency, and to be compensated at the rate of \$5 per day, and that he be allowed to employ an assistant at a compensation of \$3 per day.

His Honor, the Mayor, introduced Special Appropriation Ordinance No. 38, 1870, entitled :

AN ORDINANCE appropriating money for the payment of sundry claims against the city of Indianapolis.

Which was read the first time.

On motion, the Council adjourned to meet July 25, 1870, at 7½ o'clock P. M.

DANIEL MACAULEY, *Mayor.*

ATTEST :

DANIEL M. RANSELL, *City Clerk.*