

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.
MONDAY, December 21, 1903.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, December 21, 1903, at 7:45 o'clock, in regular session, President James H. Billingsley in the chair.

The roll was called.

Present: The Hon. James H. Billingsley, President of the Common Council, and 19 members, viz: Messrs. Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright.

Absent, 1, viz.: Mr. Storm.

Mr. Cooper moved that the Council take a recess of five minutes to allow the Committee on Public Safety and Comfort to meet. Carried.

The Council reconvened in five minutes.

Mr. Moriarity moved that the reading of the Journal be dispense with. Carried.

COMMUNICATIONS FROM CITY OFFICERS.

From the Mayor:

INDIANAPOLIS, December 15, 1903.

To the President and Members of the Common Council of the City of Indianapolis:

Gentlemen: I have this day signed and approved General Ordinance No. 74, 1903; General Ordinance No. 75, 1903; General Ordinance No. 76,

1903; Appropriation Ordinance No. 20, 1903, and Appropriation Ordinance No. 21, 1903, returning same.

Respectfully,

JOHN W. HOLTZMAN,
Mayor.

Which was read.

REPORTS FROM CITY OFFICERS.

From the City Comptroller :

To the Honorable, the President and Members of the Common Council:

Gentlemen: In my opinion, the services of the Clerk of the Board of Public Works are well worth \$1,500 a year, as it is one of the most responsible of the clerical offices of the city and calls for a large amount of work. I, therefore, concur in the recommendation below.

J. P. DUNN,
City Comptroller.

Which was read and referred to Committee on Fees and Salaries.

COMMUNICATIONS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, December 21, 1903.

To the President and Members of the Common Council:

Gentlemen: We desire to give our approval to General Ordinance No. 73, 1903, now pending before your honorable body in the hands of the Committee on Fees and Salaries, which provides for an increase in the salary of the Clerk of the Board of Public Works.

We believe the increase provided in this ordinance to be just because of the duties and responsibilities which the growth of business in the office of this Board has imposed on the Clerk. The increase from \$1,200 to \$1,500 is in our opinion commensurate with these duties and responsibilities.

Respectfully,

M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works.

Which was read and referred to the Committee on Fees and Salaries.

From the Board of Public Works:

INDIANAPOLIS, December 11, 1903.

To the President and Members of the Common Council:

Gentlemen: We transmit with this communication an ordinance approving a certain contract granting the Peoria & Eastern Railway Company the right to lay and maintain a railway track across Depot street and Station street and the alley between said streets, made between the City by and through its Board of Public Works, and the Peoria & Eastern Railway Company, December 9, 1903, for your consideration and action

Respectfully,

M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works.

INDIANAPOLIS, November 12, 1903.

To the Board of Public Works, Indianapolis, Ind.:

Gentlemen: The Peoria & Eastern Railway Company hereby petition the Board of Public Works for leave to construct a railroad track across Depot street and Station street and the alley between said streets as shown by the plat hereto attached and made a part of this petition. The total length of such tracks to be 510½ feet.

Respectfully,

THE PEORIA & EASTERN RAILWAY COMPANY,
By J. A. BARNARD, General Manager.

Which was read and referred to Committee on Railroads.

REPORTS FROM STANDING COMMITTEES.

From the Finance Committee (majority report):

INDIANAPOLIS, December 21, 1903.

To the President and Members of the Common Council:

Gentlemen: Your Committee, to whom was referred General Ordinance No. 63, 1903, would report that same has been under consideration and would recommend its passage when amended as follows: By inserting the figures seven thousand seven hundred and sixty dollars (\$7,760.00) in line eight (8) of the same paragraph of Section one (1) after the word assistance.

Respectfully submitted,

J. L. GASPER,
J. H. CRALL,
W. A. RHODES,
LEW W. COOPER,
J. ED. KRAUSE,
Finance Committee.

From the Finance Committee (minority report):

We, the undersigned members of the Finance Committee, have given

General Ordinance No. 63 consideration and submit the following minority report:

We would advise the passage of Ordinance No. 63 including the additional appropriation of \$5,000 or \$12,760 for extra inspection, Engineering and Clerical Assistants.

We do not believe that it would be wise to refuse to appropriate the additional \$5,000 asked for as including this the total appropriation for the City Engineer's office for 1904 would only be the amount that was spent in this department in the first nine months of 1903, and by knowingly appropriating less than the actual needs of the office require we encourage the officials to pay additional inspectors out of the general fund as they have a right to do according to opinions rendered by former City Attorneys, Mr. Joss and Mr. Kern.

Respectfully submitted,

FRANK S. FISHBACK,
M. J. SHEA.

Mr. Fishback moved to substitute the minority report for the majority report.

Mr. Crall moved to lay this motion on the table. Motion seconded.

The roll was called resulting as follows:

Ayes, 13, viz.: Messrs. Cooper, Cottey, Crall, Eppert, Davis, Gasper, Hofmann, Krause, Linus, Murray, Rhodes, Uhl and President James H. Billingsley.

Noes, 7, viz.: Fishback, Moriarity, Shea, Sullivan, Wahl, Wolsiffer, Wright.

Mr. Gasper moved the adoption of the majority report. Carried.

From the Committee on Public Safety and Comfort:

INDIANAPOLIS, December 21, 1903.

To the President and Members of the Common Council:

Your Committee, to whom General Ordinance No. 68, 1903, was referred, recommend that same do pass.

LEW W. COOPER,
ALBERT E. UHL,
JAMES B. MURRAY,
JAMES F. SULLIVAN,
W. A. RHODES.

Mr. Cooper moved that the report of the committee be accepted. Carried.

From the Committee on Public Safety and Comfort:

INDIANAPOLIS, December 21, 1903.

To the President and Members of the Common Council:

Your Committee, to whom was referred General Ordinance No. 71, 1903, has had the same under consideration and would recommend that the same be amended by inserting after the word Indianapolis in line 4, Section 1, the words, "between 7 A. M. and 7 P. M." When so amended, recommend that it do pass.

LEW W. COOPER,
W. A. RHODES,
ALBERT E. UHL,
JAMES B. MURRAY,
JAMES F. SULLIVAN.

Mr. Cooper moved that the committee's action be concurred in. Carried.

Report from Committee on Railroads:

INDIANAPOLIS, December 7, 1903.

To the President and Members of the Common Council:

Your Committee on Railroads, to whom was referred General Ordinance No. 72, 1903, have had same under consideration and recommend that same do pass.

FRED W. EPPERT,
ALBERT E. COTTEY,
OTTO HOFMANN,
JAMES B. MURRAY,
JOHN WOLSIFFER.

Mr. Eppert moved that the report be concurred in. Carried.

Mr. Crall moved to refer back to Committee on Ordinances. Carried.

Report of Committee on Ordinances:

INDIANAPOLIS, December 21, 1903.

To the President and Members of the Common Council:

Gentlemen: Your Committee on Ordinances, to whom was referred General Ordinance No. 69, 1903, have had same under consideration and would respectfully recommend that same be amended to read as follows:

The word "Mayor" be stricken out and the words "the City Attorney" be inserted in lieu thereof.

With the foregoing amendment we respectfully recommend that said ordinance do pass.

J. EDWARD KRAUSE,
ANDREW H. WAHL,
LEW W. COOPER.

Mr. Krause moved that the report of the committee be accepted. Carried.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

By Board of Public Works:

General Ordinance No. 77—1903: An ordinance approving a certain contract granting Benjamin Roberts the right to lay and maintain a spur attached to his switch track across Rural street in the City of Indianapolis, and fixing a time when same shall take effect.

INSERT CONTRACT HEREINBEFORE SET OUT IN MEETING OF DECEMBER 7, 1903

Whereas, Said contract has been submitted by said Board of Public Works to the Common Council of the City of Indianapolis for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That said contract hereinbefore set forth be, and the same is hereby, in all things confirmed and approved.

Section 2. This ordinance shall take effect and be in full force from and after its passage.

Which was read a first time and referred to the Committee on Railroads.

From the Board of Public Works:

General Ordinance No. 78—1903: An ordinance approving a certain contract granting the Peoria & Eastern Railway Company the right to lay and maintain a railroad track across Depot street and Station street and the alley between said streets in the City of Indianapolis, Indiana, and fixing a time when same shall take effect.

Whereas, heretofore, to-wit: On the 11th day of November, 1903, the Peoria & Eastern Railway Company filed its petition before the Board of Public Works of the City of Indianapolis, as follows:

PETITION.

INDIANAPOLIS, IND., November 11, 1903.

To the Board of Public Works, Indianapolis, Indiana:

Gentlemen: The Peoria & Eastern Railway Company hereby petitions the Board of Public Works for leave to construct a railroad track across Depot street and Station street and the alley between said streets as shown by the plat hereto attached and made a part of this petition. The total length of such tracks to be 510½ feet.

Respectfully,

THE PEORIA & EASTERN RAILWAY COMPANY,
By J. A. BARNARD, General Manager.

Now, therefore, This agreement, made and entered into this 9th day of December, 1903, by and between the Peoria & Eastern Railway Company, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part, witnesseth:

That the party of the first part, being desirous of constructing a railroad track across Depot street and Station street and the alley between said streets in the City of Indianapolis, which is more specifically described in the petition of the said first party, hereto attached and

made a part of this contract, hereby covenants and fully binds itself, its successors, legal representatives and assigns, that, it will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

1. They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

2. Said track shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board, and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said track.

3. The crossings where said track intersects Depot street and Station street and the alley between said streets, shall, at all times, be kept improved and in repair and free from obstruction or defects of any kind. No car or cars shall be permitted to obstruct such crossings or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

4. Said party of the first part agrees, at the pleasure and written order of said Board, to take up and remove said track and upon its failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in no wise become a trespasser.

5. The party of the first part agrees to pave between said tracks to the entire satisfaction of the second party, and in case said track shall be or become out of repair or in need of being reconstructed, or become in any way defective (of which fact the said Board shall be the exclusive judge) it shall be the duty of the said party of the first part to promptly repair and remove same, failing in which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part, and for which expense and cost the said party of the first part shall be liable.

6. The said party of the first part herein binds itself to hold said party of the second part and said City harmless from any and all claims for damages growing out of the existence, maintenance or use of said tracks, and to pay any judgment, with costs, that may on that account be rendered against it or said City.

7. Any violation of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract; *Provided, however,* That the same may be terminated without cause at the pleasure of said Board, as hereinbefore set forth in Clause 4.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning the incorporation and government of cities having more than one hundred thousand population, according to the United States census last preceding, and matters therewith connected and declaring an emergency," approved March 6, 1891, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated hereby, gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain a railroad track across

Depot street and Station street and the alley between said streets in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

In Witness Whereof, We have hereunto set our hands this 9th day of December, 1903.

THE PEORIA & EASTERN RAILWAY COMPANY,
By J. A. BARNARD, General Manager.

Witness:

ED RUMPLER.

CITY OF INDIANAPOLIS,

By M. A. DOWNING,

JACOB WOESSNER,

DAVID WALLACE,

Board of Public Works,

And, Whereas, Said contract has been submitted by said Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That said contract above set forth be and the same is hereby in all things confirmed and approved.

Section 2. This ordinance shall take effect and be in full force from and after its passage.

Which was read a first time and referred to Committee on Sewers, Streets and Alleys.

MISCELLANEOUS BUSINESS.

By Mr. Shea:

INDIANAPOLIS, December 21, 1903.

To the President and Members of the Common Council:

Whereas, The angel of death has visited the home of John W. Storm, one of the members of this Council, and has taken from the home of our said brother his beloved wife; therefore, be it

Resolved, That this Council extends to said brother its condolence, in his hour of affliction, and, be it further

Resolved, That a copy of this resolution be spread of record in the proceedings of this body.

Which was read.

Mr. Shea moved the adoption of the resolution.

The resolution was adopted by the following vote:

Ayes, 20, viz.: Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

By Mr. Fishback:

Whereas, The members of the Common Council understood that Mr. J. P. Dunn, City Comptroller, had refused to allow the printing of the book of rules, and believing that he was wilful and malicious in so doing, they criticized and condemned him for his action.

Whereas, We have since learned that his reason for his refusal was that the Council printing fund had been exhausted and he had so stated in his letter of November 11th and had asked for an appropriation, but at the special meeting of November 14th, the Council, by a party vote, refused to receive his communication because the call for the special meeting did not "specifically specify" the object of the meeting, so that the Council by said action delayed the printing of the book of rules for three weeks. Therefore, be it

Resolved, That the Council tender Mr. J. P. Dunn, City Comptroller, a complete and ample apology for the unkind criticisms of him, and, be it further

Resolved, That we hold the phrase "specifically specify" wholly responsible for said delay.

Which was read.

Mr. Cooper moved to table the resolution. Carried.

ORDINANCES ON SECOND READING.

Mr. Eppert called for General Ordinance No. 72, 1903, which was read a second time.

Mr. Eppert moved that General Ordinance No. 72, 1903, be engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 72, 1903, was read a third time and passed by the following vote:

Ayes, 20, viz.: Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Cooper called for General Ordinance No. 71, 1903, for second reading. It was read the second time.

Mr. Crall moved that the amendment to General Ordinance No. 71, 1903, be adopted. Carried.

Mr. Cooper moved that General Ordinance No. 71, 1903, be ordered engrossed, as amended, read a third time and placed upon its passage.

General Ordinance No. 71, 1903, was read a third time and passed by the following vote:

Ayes, 20, viz.: Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Cooper called for General Ordinance No. 68, 1903, for second reading. It was read a second time.

Mr Cooper moved General Ordinance No. 68, 1903, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 68, 1903, was read a third time and passed by the following vote:

Ayes, 20, viz.: Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Gasper called for General Ordinance No. 63, 1903, for second reading. It was read a second time.

Mr. Rhodes moved that General Ordinance No. 63, 1903, be amended as recommended by committee. Carried.

Mr. Gasper moved that General Ordinance No. 63, 1903, be ordered engrossed, as amended, read a third time and placed upon its passage.

General Ordinance No. 63, 1903, was read a third time and passed by the following vote:

Ayes, 20, viz.: Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl, Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

Mr. Krause called for General Ordinance No. 69, 1903, for second reading. It was read a second time.

Mr. Crall moved to amend General Ordinance No. 69, 1903, by striking out the name of Henry Warrum where it appears in said ordinance. Carried.

Mr. Krause moved that General Ordinance No. 69, 1903, be also amended as recommended by the committee. Carried.

Mr. Krause moved that General Ordinance No. 69, 1903, be ordered engrossed, as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 69, 1903, was read a third time and passed by the following vote:

Ayes, 19, viz.: Cooper, Cottey, Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Moriarity, Murray, Rhodes, Shea, Sullivan, Uhl. Wahl, Wolsiffer, Wright and President James H. Billingsley.

Noes, none.

On motion of Mr. Rhodes, the Common Council, at 8:40 o'clock, adjourned.

J. H. Billingsley

.....
President.

ATTEST:

W. M. Fogarty

.....
City Clerk.

