

## REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, July 18, 1904.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, July 18, 1904, at 7:45 o'clock, in regular session, President James H. Billingsley in the chair.

Present: The Hon. James H. Billingsley, President of the Common Council, and 15 members, viz: Messrs. Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Storm, Uhl, Wahl, Wolsiffer.

Absent, 5, viz.: Messrs. Cooper, Cottey, Shea, Sullivan, Wright.

On motion of Mr. Moriarity the reading of the Journal was suspended.

## COMMUNICATIONS FROM THE MAYOR.

INDIANAPOLIS, IND., June 29, 1904.

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

I herewith return with my signature and approval General Ordinance No. 46, 1904; Appropriation Ordinance No. 9, 1904.

Respectfully,

JOHN W. HOLTZMAN,  
Mayor.

Which was read.

INDIANAPOLIS, IND., June 24, 1904.

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

I herewith return with my signature and approval General Ordinance No. 30, 1904; General Ordinance No. 38, 1904; General Ordinance No. 44, 1904; General Ordinance No. 22, 1904; General Ordinance No. 43, 1904; Appropriation Ordinance No. 8, 1904.

Respectfully,

JOHN W. HOLTZMAN,  
Mayor.

Which was read.

INDIANAPOLIS, IND., July 2, 1904.

To the Honorable, the President and Members of the Common Council:  
Gentlemen: During the recent floods the following named bridges over White River in the City of Indianapolis, to-wit: Morris street, River avenue, Michigan street and Lafayette Pike, were badly damaged and rendered unsafe. These bridges were afterwards closed by the City Engineer to avoid accidents and injury.

Owing to the enormous expense of constructing substantial bridges at these places the city in its present financial condition, was unable to undertake such construction. I at once appealed to the Board of Commissioners of Marion County to construct such bridges, believing that under the laws of the State of Indiana the Board of Commissioners of Marion County was fully authorized and empowered to build such bridges within the city limits. The Board of Commissioners looked favorably upon the request of the city and agreed to build the bridges, if the County Council would make the necessary appropriation, which the County Council afterwards did.

The Board of Commissioners of Marion County, at the time I made the request for them to build these bridges, asked that the old bridges with piers and abutments be turned over to them to be used as far as practicable in the construction of said new bridges or elsewhere as they might deem proper. I unhesitatingly agreed to exchange the old for the new, subject, however, to the approval of the Board of Public Works and your honorable body.

In accordance with my conversation with the Board of Commissioners of Marion County, I herewith submit an ordinance for your consideration, authorizing the Board of Public Works to transfer said bridges to the Board of Commissioners of Marion County.

Respectfully,

JOHN W. HOLTZMAN,

Mayor.

Which was read.

To the Honorable, the President and Members of the Common Council:  
Gentlemen: I desire to call your attention to General Vehicle License Ordinance of November 27, 1893.

It seems that under the construction placed upon this ordinance by our Supreme Court both Sections 2350 and 2360 (Laws and Ordinances of the City of Indianapolis) apply to farmers living outside of the city limits and requiring a license on vehicles such as are used exclusively as family conveyances or bringing to market any produce or provisions of the owner's own raising. This ordinance while valid is proving anything but advantageous to the City of Indianapolis. Ordinarily I would be exceedingly slow in disturbing any revenue ordinance, but in this instance I do not believe that if the laws were most rigidly enforced that the city would derive more than one thousand dollars from such source.

As against this we drive farmers away from the city of Indianapolis and compel them to market their produce elsewhere and antagonize them to such an extent as to lose their trade, and I am sure that the loss to Indianapolis, by reason of the enforcement of this ordinance, would be vastly in excess of the revenue obtained. Besides, the loss, such ordinance creates a feeling of antagonism against the city among those living without its limits, which should not be permitted to exist.

I enclose herewith a letter from Mr. Jacob P. Dunn, Comptroller of the City of Indianapolis, fully explaining this situation. I also enclose herewith an ordinance amending such vehicle license ordinance and

eliminating what I regard as the objectionable feature of said ordinance.

As about \$225.00 has already been collected from such source under said ordinance, I would also recommend an appropriation ordinance by which the money so collected can be returned.

Without desiring to trespass upon the rights, privileges and dignity of your honorable body I wish to urge the immediate consideration and passage of this amendatory ordinance.

Most respectfully,

JOHN W. HOLTZMAN,  
Mayor.

INDIANAPOLIS, IND., July 5, 1904.

Hon. John W. Holtzman, Mayor Indianapolis:

Dear Sir: In reply to your inquiry, I would say that the requirement of vehicle license from farmers is under the provisions of the General Vehicle License Ordinance of November 27, 1893. (Laws and Ordinances, Sections 2350-2361.) The first Section applies to all vehicles "used upon the streets of Indianapolis." The second Section applies to certain classes of vehicles owned by non-residents, but provides for the same license as the first Section. The validity of the ordinance was tested in 1896 (Tomlinson vs. the City, 144 Ind. p. 142), and the Supreme Court held the ordinance valid. Tomlinson was charged with violating both Sections 1 and 2, and the court held that both applied. The court after calling attention to the fact that the license is the same for residents and non-residents, says:

"No discrimination whatever having been made against appellant on account of his residing outside of the city limits, we have been unable to discover any good reason why he should not pay a license for his vehicle as well as any other person making like use of streets of the city. Indeed he is at an advantage as compared with the city resident; he has paid no taxes to improve the streets and yet uses them day after day in his business quite the same as a resident. It is manifestly but just that not having paid to improve the streets, he should at least pay the same license fee for using them as is paid by those who have themselves paid their share of the cost of improving the streets. If this ordinance favors any one it is the non-resident rather than the resident."

The matter as it now stands, is simply one of the enforcement of an ordinance that has been sustained by the Supreme Court, and I am not aware of any authority on my part to make any discrimination between residents and non-residents where the law makes none.

The policy of the ordinance is perhaps open to question, and I have said to persons who objected to it that their remedy was to have it repealed or amended by the Council. On the one hand, as the Supreme Court says, the residents pay for making and repairing the streets, and also the vehicle license. Since the new charter went into effect they have paid \$7,000,000 for brick, asphalt, block, and macadam streets, in addition to gravel streets, sewers, levees, bridges, etc. Much of this has fallen on people who had no vehicles. The Barrett law issues a lone have been a little over \$3,500,000 which, with the regular interest of 6 per cent., makes an interest payment of \$210,000 annually, or more than that total vehicle license collected. The residents have also paid for the cleaning and repair of the streets. The roads outside of the city have been made free, practically by purchase by the county, but on a township basis, each township paying for the toll roads within its limits. The expense of keeping up the "free gravel roads" is paid by the county, amounting to about \$60,000 a year, and of this, as of all

other county expenses, Indianapolis pays about nine-tenths. Certainly there is no discrimination against the farmer in this situation.

On the other hand, it is desirable to invite non-residents here to trade, and there are a great many people who prefer to buy butter, eggs, etc., from farmers. If the people of Indianapolis wish to exempt non-residents from the tax, the proper method would be for the council to amend the ordinance to that effect. I may add the revenue from this source is not large, and probably would not become so. I should say that less than \$1,000 was to be expected under the most favorable conditions.

Of course, if exemption is provided by amendment there should be a refunding of license fees to those who have already paid. As nearly as I can estimate these amount to about \$225.00, and I would recommend an appropriation of \$250.00 be made to cover this expenditure.

Yours truly,

J. P. DUNN,  
City Comptroller.

Which was read.

INDIANAPOLIS, IND., July 13, 1904.

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

Gentlemen: I herewith enclose an invitation to your honorable body to attend the laying of the corner-stone of the water works in the town of Mooresville on July 29, 1904, at two o'clock, P. M.

Hoping that you will find time to accept this very cordial invitation, I am,

Respectfully,

JOHN W. HOLTZMAN,  
Mayor.

MOORESVILLE, IND., July 11, 1904.

Hon. John W. Holtzman, Mayor of the City of Indianapolis, Indianapolis, Indiana:

Dear Sir: The Board of Trustees of the Town of Mooresville (the principal suburb of Indianapolis), at their last meeting passed a resolution instructing me to invite the Mayor and the Council of your city to attend the laying of the corner-stone of the water works in this town on July 29th at 2 P. M.

Therefore, in response to such resolution, in the name and on behalf of the Town of Mooresville, I most cordially invite you to attend on that date and rejoice with us, and partake of our hospitality.

Very truly yours,

D. E. DOLEN.

Which was read.

#### REPORTS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, IND., June 27, 1904.

To the President and Members of the Common Council:

Gentlemen: The attached ordinance, entitled: "An ordinance approving a certain contract granting the Maas-Niemeyer Lumber Com-



pany the right to lay and maintain a side-track or switch from its property across Twenty-first street, according to blue print attached, in the City of Indianapolis, Indiana," and approved by this Board on June 24, 1904, is transmitted to you for consideration and action.

Respectfully,

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

Which was read.

INDIANAPOLIS, IND., July 18, 1904.

To the President and Members of the Common Council:

Gentlemen: The Board of Public Works directs me to transmit to you for your consideration ordinances approving the following switch contracts:

With the South Side Transfer and Fuel Company for a switch across Caven street.

With the Peoria & Eastern Railway Company for two switches across Belmont avenue.

With the C., C., C. & St. L. Railway Company for a switch across New Jersey street, the first alley north of Louisiana street and the first and second alleys east of New Jersey street.

For the Board of Public Works,

W. R. WILLIAMS,  
Clerk.

Which was read.

#### REPORTS FROM CITY OFFICERS.

From the City Comptroller:

INDIANAPOLIS, IND., July 18, 1904

To the President and Members of the Common Council:

I submit herewith recommendation of the Department of Public Safety for the purchase of two boats for the use of the police force. Two steel row boats can be obtained for \$100 with the necessary furnishings. They can easily be transported to any point when needed and would be of very great use for cases of drowning, as well as in floods. The police have the only grappling irons in the city, and are always called on to recover bodies, which work is often greatly obstructed by lack of a boat. I recommend the appropriation of \$100 for this purpose, and inclose ordinance herewith.

Very respectfully,

J. P. DUNN,  
City Comptroller.

INDIANAPOLIS, IND., July 2, 1904.

To the Honorable Board of Public Safety:

Gentlemen: I hereby recommend to your honorable board the purchase of two boats for the use of the police department. The fact that these are needed, was evidenced by our lack of ability to rescue people and property during the recent high waters that visited our city. Our department should be equipped with boats. We never know just how soon they may be needed.

A special appropriation by the City Council for this purpose will be necessary.

Trusting that your honorable board will see at once the urgent need of these, and that same will meet your approval, I am,

Your obedient servant,

C. L. KRUGER,  
Superintendent of Police.

INDIANAPOLIS, IND., July 18, 1904.

J. P. Dunn, City Comptroller:

Dear Sir: In accordance with the inclosed letter of Superintendent Kruger the Board of Public Safety requests you to recommend to the Common Council the appropriation of \$100.00 for the purchase of two row boats for use in cases of emergency.

Respectfully,

THOS. MADDEN,  
Chairman.

Which was read.

INDIANAPOLIS, IND., July 18, 1904.

To the President and Members of the Common Council:

I submit herewith request of the Board of Public Works for an additional appropriation of \$3,000 for the Brightwood Water Works, which I recommend to be made. Ordinance for that purpose is enclosed herewith.

Respectfully,

J. P. DUNN,  
City Comptroller.

INDIANAPOLIS, IND., July 18, 1904.

Mr. Jacob P. Dunn, City Comptroller:

Dear Sir: We hereby request you to ask the Council for an appropriation of \$3,000.00 for the Brightwood Water Works. Needed repairs have almost depleted this fund, the balance now being but \$1,092.00. The Board will require \$1,200.00 for salaries, about \$1,500.00 for fuel and incidentals and about \$1,500.00 for a new well and pump. This will require the appropriation of \$3,000.00 additional.

Respectfully,

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

Which was read.

## REPORTS FROM STANDING COMMITTEES.

### From Committee on Fees and Salaries:

To the President and Members of the Common Council:

Your Committee on Fees and salaries, to whom was referred General Ordinance No. 18, 1904, beg leave to report that they recommend said ordinance be amended to read as follows:

General Ordinance No. 18—1904: An ordinance fixing the annual compensation of officers of the Police Force, Detectives and Patrolmen

of the City of Indianapolis, and fixing a time when the same shall take effect.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That the Superintendent of Police shall receive a salary at the rate of twenty-two hundred (\$2,200) dollars per annum.

The Captains shall each receive a salary at the rate of thirteen hundred twenty (\$1,320) dollars per annum.

The Sergeants shall each receive a salary at the rate of ten hundred twenty (\$1,020) dollars per annum.

The Detectives shall each receive a salary at the rate of ten hundred twenty (\$1,020) dollars per annum.

The Patrolmen shall each receive a salary at the rate of two and fifty hundredths (\$2.50) dollars per day or nine hundred and twelve and fifty one-hundredths (\$912.50) dollars per annum.

Sec. 2. Salaries and compensation provided for in the foregoing Section of this ordinance shall commence on the first day of January, 1905.

Sec. 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 4. This ordinance shall be in full force and effect from and after the first day of January, 1905, and upon its passage and approval by the Mayor of said City of Indianapolis.

And your committee beg leave to recommend that as amended, said ordinance do pass.

JAMES B. MURRAY,  
ALBERT E. COTTEY,  
JOHN W. STORM.

Which was read.

Mr. Murray moved that report of the committee be received.  
Carried.

Report from Committee on Railroads:

INDIANAPOLIS, IND., July 18, 1904.

To the President and Members of the Common Council:

Your Committee on Railroads, to whom was referred General Ordinance No. 45, 1904, have had same under consideration and recommend its passage.

FRED W. EPPERT,  
JAMES B. MURRAY,  
OTTO HOFMANN,  
JOHN WOLSIFER.

Which was read.

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

#### INTRODUCTION OF APPROPRIATION ORDINANCES.

By the City Comptroller:

Appropriation Ordinance No. 10—1904: An ordinance appropriating \$16,000.00 to and for the use of the Department of Public Works and fixing a time when the same shall take effect.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of sixteen thousand (\$16,000.00) dollars be and the same is hereby appropriated to and for the use of the Department of Public Works as follows, to-wit:

For repairs to Virginia avenue viaduct.....	\$5,000.00
For repairs to permanently improved streets.....	5,000.00
For City Engineer's salaries, extra help.....	6,000.00

Total .....\$16,000.00

And the said Department of Public Works is hereby authorized to expend the several sums herein appropriated, or so much thereof as may be necessary, for the purposes needed.

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

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

By the City Comptroller:

Appropriation Ordinance No. 11—1904: An ordinance appropriating \$3,000 to the use of the Board of Public Works to be expended on the Brightwood Water Works.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of \$3,000 be, and is hereby, appropriated to the Board of Public Works, for Brightwood Water Works, out of any moneys not otherwise appropriated.

Sec. 2. This ordinance shall be in force from and after its passage.

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

By the City Comptroller:

Appropriation Ordinance No. 12—1904: An ordinance to appropriate the sum of \$250.00 to the Department of Finance to repay the fees paid for vehicle licenses in certain cases.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of two hundred and fifty (\$250.00) dollars be and the same is hereby appropriated out of the general funds of the City of Indianapolis, to the Department of Finance to be used in refunding to persons the license fees paid in the year 1904 upon vehicles which by the terms of an ordinance, being General Ordinance No. 1904, are made exempt.

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

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

By the City Comptroller:

Appropriation Ordinance No. 13—1904: An ordinance appropriating \$100 to the use of the Board of Public Safety, for the purchase of boats.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That there be, and is hereby, appropriated the sum



of \$100, out of any moneys not otherwise appropriated, to and for the use of the Board of Public Safety, for the purchase of boats for the use of the Police Force.

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

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

#### INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

By the Mayor:

General Ordinance No. 50—1904: An ordinance to amend Section 2 of an ordinance, entitled, "An ordinance providing for a license upon vehicles drawn upon the streets of the City of Indianapolis, Indiana; regulating the construction and dimension of tires to be used on such vehicles, and providing penalties for the enforcement of the same; also for the publication thereof, and the date when the same shall take effect," being Section 2351 of the "Laws and Ordinances" as revised in 1895 as amended by General Ordinance No. 77—1893, providing for the publication thereof and fixing the time when the same shall take effect.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That amended Section 2, of an ordinance, entitled, "An ordinance providing for a license upon vehicles drawn upon the streets of the City of Indianapolis, Indiana; regulating the construction and dimension of tires to be used on such vehicles, and providing penalties for the enforcement of the same; also for the publication thereof, and the date when the same shall take effect," being Section 2351 of the "Laws and Ordinances" as revised in 1895 as amended by General Ordinance No. 77—1893, be and is hereby amended to read as follows:

Sec. 2. No license shall be required on the vehicles belonging to any person or persons living without said city if such vehicles are used exclusively as family conveyances, or for bringing to market, or to a fixed point of delivery any produce or provisions of the owner's own raising, but a license shall be paid on all vehicles belonging to any person or persons living without said city engaged in huckstering and marketing produce into or from said city, or belonging to persons engaged in farm gardening or huckstering, or in hauling goods or merchandise to or out of said city; al. vehicles belonging to any person or persons without said city engaged in manufacturing within or without said city and used in the hauling of goods or merchandise to or out of said city; and all vehicles belonging to any dairyman or manufacturer of brick, or belonging to any person or persons living without said city engaged in selling or delivering ice. Such owners, or the lessees, of the above mentioned vehicles shall pay an annual license fee upon their vehicles used upon the streets of said city as follows:

1. On each one-horse wagon, three dollars.
2. On each two-horse wagon, five dollars.
3. On each four-horse wagon, eight dollars.
4. On each two-horse wagon used for hauling brick or ice, eight dollars; and on each four-horse wagon for either such purposes, twelve dollars.

*Provided*, That any person residing without said city, and conduct-

ing a business in said city, and going to and from his business by any vehicle, shall pay the license fee as stipulated herein.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and publication one day each week for two consecutive weeks in the Indianapolis Sentinel, a daily newspaper printed and published in said city.

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

By Board of Public Works:

General Ordinance No. 51—1904: An ordinance approving a certain contract granting The Maas-Niemeyer Lumber Company the right to lay and maintain a side-track or switch from its property across Twenty-first street according to blue print attached, in the City of Indianapolis.

*Whereas*, heretofore, to-wit: on the 17th day of June, 1904, The Maas-Niemeyer Lumber Company filed its petition before the Board of Public Works of the City of Indianapolis, as follows:

PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: The undesigned, The Maas-Niemeyer Lumber Company, respectfully petitions your honorable Board asking permission to construct and maintain a switch or side-track across Twenty-first street, in the City of Indianapolis, said switch or side-track to extend from the property of the petitioner on the north side of Twenty-first street to the property of your petitioner on the south side of Twenty-first street. Your petitioner prays that the privilege and authority herein asked may be granted upon such terms and conditions as may hereafter be agreed upon by contract.

Respectfully,  
THE MAAS-NIEMEYER LUMBER COMPANY,  
By Albert E. Metzger, Vice-President.

*Now, therefore*, This agreement, made and entered into this 27th day of June, 1904, by and between The Mass-Niemeyer Lumber Company of the City of Indianapolis, County of Marion, State of Indiana, 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 securing a right-of-way for a side-track or switch from its property on the north of Twenty-first street to its property south of Twenty-first street, along the right-of-way of the Lake Erie & Western Railroad Company, in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point in the north line of Twenty-first street, said point being thirteen (13) feet east of the west line of Lewis street vacated; thence south with a curve line to a point in the south line of Twenty-first street, said point being five feet west of the west line of Lewis street, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he 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 and switch 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 tracks.

(3) The crossing where said track intersects Twenty-first street shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing 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 said party's 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 track to the entire satisfaction of the second party, and in case said tracks 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 or 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 himself 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 track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations 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 an additional side-track or switch across Twenty-first street 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 24th day of June, 1904.

THE MAAS-NIEMEYER LUMBER COMPANY,  
By Albert E. Metzger, Vice-President.  
Party of the first part.

Witness:

W. R. WILLIAMS,  
Clerk Board of Public Works.

CITY OF INDIANAPOLIS,  
By M. A. DOWNING,  
JACOB WOESSNER,  
DAVID WALLACE,  
Board of Public Works,  
Party of the second part.

*And, Whereas*. Said contract has been submitted by the 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 such contract above set forth be, and the same is hereby in all things confirmed and approved.

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

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

#### By Board of Public Works:

General Ordinance No. 52—1904. An ordinance approving a certain contract granting The Cleveland, Cincinnati, Chicago & St. Louis Railway Company the right to lay and maintain a side-track or switch from their tracks across New Jersey street adjoining its present tracks immediately north of Louisiana street; such track to extend across the first alley north of Louisiana and across the first and second alleys east of New Jersey street, according to blue print attached, in the City of Indianapolis, Indiana.

*Whereas*, heretofore, to-wit: on the 14th day of July, 1904, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company filed his petition before the Board of Public Works of the City of Indianapolis as follows:

#### PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: The Cleveland, Cincinnati, Chicago & St. Louis Railway Company hereby petitions your Board for leave to construct one additional track across New Jersey street adjoining its present tracks immediately north of Louisiana street. Such track to extend across the first alley north of Louisiana street running westwardly from New Jersey street and across the first and second alleys lying east of New Jersey street and running northwardly from Louisiana street. Such track to be used as a main track in order to permit switch engines which are now using the main track to use the present south track for switching purposes only, in order to increase safety in movement of trains and in order to further expedite the movement of cars to and from the local freight station. A plat of such additional track is herewith filed as part



of this petition marked "Exhibit A." The additional track is shown in yellow.

Respectfully,

CLEVELAND, CINCINNATI, CHICAGO &  
ST. LOUIS RAILWAY COMPANY,

By J. Q. Van Winkle, General Superintendent.

*Now, therefore.* This agreement, made and entered into this 16th day of July, 1904, by and between the Cleveland, Cincinnati, Chicago & St. Louis Railway Company of the City of Indianapolis, County of Marion, State of Indiana, 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 securing a right-of-way for a side-track or switch from the Cleveland, Cincinnati, Chicago & St. Louis Railway Company's tracks in the City of Indianapolis, which is more specifically described as follows:

Beginning on north line of Louisiana street about fifty (50) feet west of the west line of East street, and continuing west to a point in present west bound main track about two hundred thirty (230) feet east of east line of Delaware street, being constructed on north of present tracks and crossing New Jersey street at grade and under Virginia avenue, including changes necessary in track of Indianapolis Manufacturers' and Carpenters' Union, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he 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 and switch 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 tracks.

(3) The crossing where said track intersects New Jersey street and first alley north across the first and second alleys east of New Jersey street shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing 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 said party's 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 track to the entire satisfaction of the second party, and in case said tracks 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 or 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 himself 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 track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations 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 an additional sidetrack or switch across New Jersey street and first alley north of New Jersey street and across the first and second alleys east of New Jersey street, 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 18th day of July, 1904.

CLEVELAND, CINCINNATI, CHICAGO &  
ST. LOUIS RAILWAY COMPANY,

By J. Q. Van Winkle, General Superintendent.  
Party of the first part.

Witness:

CITY OF INDIANAPOLIS,  
By M. A. DOWNING,  
JACOB WOESSNER,  
Board of Public Works,  
Party of the second part.

*And, Whereas*, Said contract has been submitted by the 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 such contract above set forth be, and the same is hereby in all things confirmed and approved.

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

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

By the Board of Public Works:

General Ordinance No. 53—1904: An ordinance approving a certain contract granting The Peoria & Eastern Railway Company the right to

lay and maintain two side-tracks or switches from side-tracks across Belmont avenue, according to blue print attached, in the City of Indianapolis, Indiana.

*Whereas*, heretofore, to-wit: on the 16th day of July, 1904, The Peoria & Eastern Railway Company filed its petition before the Board of Public Works of the City of Indianapolis, as follows:

#### PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: The Peoria & Eastern Railway Company hereby petitions your honorable Board for leave to construct two tracks across Belmont avenue as shown by the accompanying plat marked "Exhibit A;" such tracks being for the purpose of yard facilities and for the purpose of developing the lands shown on said plat for manufacturing and mercantile purposes. The new tracks to be put down across Belmont avenue are shown in yellow. The dotted track shown in red partially across Belmont avenue is to be removed and present switch stands removed from the highway.

THE PEORIA & EASTERN RAILWAY COMPANY,

By M. A. Neville, Superintendent.

*Now, therefore*, This agreement, made and entered into this 16th day of July, 1904, by and between The Peoria & Eastern Railway Company of the City of Indianapolis, County of Marion, State of Indiana, 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 securing a right-of-way for a side-track or switch from its side-track across Belmont avenue in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point in the intersection of the south line of the first alley south of New York street with the east line of Belmont avenue; thence in a northwesterly direction to a point in the west line of Belmont avenue, the said point being sixty-eight (68) feet north of the north line of the first alley south of New York street extended west in a straight line. Also, beginning at a point in the east line of Belmont avenue the said point being thirty-five (35) feet south of the south line of the first alley south of New York street; thence in a northwesterly direction to a point in the west line of Belmont avenue the said point being four feet south of the north line of the first alley south of New York street extended west in a straight line, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he 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 and switch 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 tracks.



(3) The crossing where said track intersects Belmont avenue shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing 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 said party's 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 track to the entire satisfaction of the second party, and in case said tracks 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 or 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 himself 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 track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations 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 an additional side-track or switch across Belmont avenue 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 16th day of July, 1904.

THE PEORIA & EASTERN RAILWAY COMPANY,  
By J. A. Barnard, General Manager.  
Party of the first part.

Witness:

CITY OF INDIANAPOLIS,  
By M. A. DOWNING,  
JACOB WOESSNER,  
Board of Public Works.  
Party of the second part.



*And, Whereas,* Said contract has been submitted by the 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 such contract above set forth be, and the same is hereby in all things confirmed and approved.

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

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

By the Board of Public Works:

General Ordinance No. 54—1904: An ordinance approving a certain contract granting The South Side Transfer & Fuel Company the right to lay and maintain a side-track or switch from the J., M. & I. tracks across Caven street and the first alley south of Caven street, according to blue print attached, in the City of Indianapolis, Indiana.

*Whereas,* heretofore, to-wit: on the 8th day of June, 1904, the South Side Transfer & Fuel Company filed his petition before the Board of Public Works of the City of Indianapolis, as follows:

#### PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: We respectfully petition your honorable board for the passage of a resolution providing for a switch or side-track from the J., M. & I. tracks across Caven street and the first alley south of Caven street to the yards of the South Side Transfer & Fuel Company, more particularly described as follows: (H. I.)

SOUTH SIDE TRANSFER & FUEL COMPANY,  
Harvey Hoffman.  
W. L. Hoffman.

*Now, therefore,* This agreement, made and entered into this 18th day of July, 1904, by and between the South Side Transfer & Fuel Company of the City of Indianapolis, County of Marion, State of Indiana, 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 securing a right-of-way for a side-track or switch from the J., M. & I. tracks at a point about forty feet north of the north property line of Caven street extended, and running thence on the right-of-way of the said railroad company to a point thirty-five feet west of the intersection of the east right-of-way line of the J., M. & I. railway tracks and the north property line of Caven street; thence running on a 12 degree curve to a point seven (7) feet west of the intersection of the east right-of-way line with the south property line of the first alley south of Caven street; thence crossing the first alley south of Caven street at an angle of 45 degrees to the property of the South Side Transfer & Fuel Company, said switch or siding being 445 feet in length, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he 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 and switch 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 tracks.

(3) The crossing where said track intersects Caven street and the first alley shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing 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 said party's 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 track to the entire satisfaction of the second party, and in case said tracks 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 or 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 himself 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 track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations 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 an additional side-track or switch across Caven street and the first alley south of Caven street, 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 18th day of July, 1904.

SOUTH SIDE TRANSFER & FUEL COMPANY,  
By W. L. Hoffmann.  
Party of the first part.

Witness:

CITY OF INDIANAPOLIS,  
By M. A. DOWNING,  
JACOB WOESSNER,  
Board of Public Works.  
Party of the second part.

*And, Whereas*, Said contract has been submitted by the 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 such contract above set forth be, and the same is hereby in all things confirmed and approved.

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

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

By Mr. Fishback:

General Ordinance No. 55—1904: An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to transfer the title of the City of Indianapolis in and to certain bridges, including the piers and abutments, to the Board of Commissioners of Marion County, Indiana.

*Whereas*, the condition of the following named bridges over White river in the City of Indianapolis, to-wit, Morris street, River avenue, Michigan street and Lafayette Pike, are out of repair and public necessity demands their replacement with new and modern bridges capable of withstanding the continued and increasing traffic over them, and

*Whereas*, the Board of Commissioners of Marion County, Indiana, is about to construct new, modern and substantial bridges in place of the ones referred to and has requested that all right, title and interest of the City of Indianapolis in and to all the material composing said old bridges including the piers and abutments be transferred to it, to be used in and about said new bridges so far as practicable and elsewhere as it may deem proper.

*Now, therefore*, Be it ordained by the Common Council of the City of Indianapolis, Indiana, as follows:

Section 1. That the Board of Public Works of the City of Indianapolis, Indiana, be and is hereby authorized and empowered in consideration of the Board of Commissioners of Marion County, Indiana, undertaking to construct new, modern and substantial bridges over White river at the following places in said City of Indianapolis, to-wit, Morris street, River avenue, Michigan street and Lafayette Pike (Emrichsville), to transfer and set over to said Board of Commissioners all the right, title and interest of the City of Indianapolis in and to all the materials composing the old bridges, piers and abutments at the places above mentioned.

Sec. 2. Nothing in this ordinance contained shall be regarded as repealing or modifying Sections 1776 to 1779 inclusive of the Revision of

1895 of the General Ordinances of the City of Indianapolis, Indiana, except so far as is necessary to carry out the purposes of this ordinance.

Sec. 3. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor of the City of Indianapolis, Indiana.

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

#### MISCELLANEOUS BUSINESS.

The Chair presented the following communication from the Coroner of Marion County:

INDIANAPOLIS, IND., June 28, 1904.

Hon. James H. Billingsley, President City Council:

Dear Sir: In view of the fact that there were eighteen cases of drowning in Marion county last year, and already eleven cases since the 1st of January this year with the probability of as many more in the next sixty days (the swimming season only fairly begun) I would like to recommend some legislation that would tend to minimize this awful, needless loss of life, an ordinance to prohibit public bathing except in specified places, and provide those places with life saving apparatus.

If this could be done I haven't the least doubt but five or six lives of young men and boys could be saved each year.

Hoping that this communication will meet with your hearty approval, I am

Respectfully,

H. D. TUTEWILER.

Which was read.

The Chair then presented the following resolution:

Resolution No. 2—1904: Be it resolved by the Common Council of the City of Indianapolis,

That the Committee on Public Safety and Comfort be instructed to confer with the Board of Public Safety as to the advisability of arranging for life-saving and police supervision of certain designated swimming or bathing places in the streams of Indianapolis.

Which was read.

Mr. Crall moved that Resolution No. 2, 1904, be adopted.

Resolution No. 2, 1904, was adopted by the following vote:

Ayes, 16, viz.: Messrs. Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Storm, Uhl, Wahl, Wolsiffer, and President James H. Billingsley.

Noes, none.

#### ORDINANCES ON SECOND READING.

Mr. Eppert called for General Ordinance No. 45, 1904, for second reading. It was read a second time.



Mr. Eppert moved that General Ordinance No. 45, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 45, 1904, was read a third time and passed by the following vote:

Ayes, 16, viz.: Messrs. Crall, Davis, Eppert, Fishback, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Storm, Uhl, Wahl, Wolsiffer and President James H. Billingsley.  
Noes, none.

Mr. Murray called for General Ordinance No. 18, 1904, for second reading. It was read a second time.

Mr. Murray moved that General Ordinance No. 18, 1904, be amended as recommended by the committee. Carried.

Mr. Murray moved that General Ordinance No. 18, 1904, be ordered engrossed as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 18, 1904, was read a third time and passed by the following vote:

Ayes, 15, viz.: Messrs. Crall, Davis, Eppert, Gasper, Hofmann, Krause, Linus, Moriarity, Murray, Rhodes, Storm, Uhl, Wahl, Wolsiffer and President James H. Billingsley.  
Noes, one, viz.: Fishback.

On motion of Mr. Crall, the Common Council, at 8:25 o'clock, adjourned.

.....  
*President.*

ATTEST:

.....  
*City Clerk.*

