

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, October 17, 1904.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, October 17, 1904, 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, Storm, Sullivan, Uhl, Wolsiffer, Wright.

Absent, 1, viz.: Mr. Wahl.

On motion of Mr. Gasper the reading of the Journal was dispensed with.

COMMUNICATIONS FROM THE MAYOR.

INDIANAPOLIS, IND., October 8, 1904.

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

I herewith return with my signature and approval Appropriation Ordinance No. 23, 1904; Appropriation Ordinance No. 24, 1904; Appropriation Ordinance No. 22, 1904; Appropriation Ordinance No. 21, 1904; General Ordinance No. 70, 1904; General Ordinance No. 74, 1904.

Respectfully,

JOHN W. HOLTZMAN,

Mayor.

Which was read.

REPORTS FROM CITY OFFICERS.

From the City Comptroller:

INDIANAPOLIS, IND., October 17, 1904.

To the President and Members of the Common Council:

Gentlemen: I transmit herewith letter of attorney of Magdalena

Federspill, executrix, asking for rebate of \$175 on saloon license of her husband, Michael Federspill, who died July 30, 1904. As she is legally entitled to this rebate, I recommend an appropriation for that purpose, and inclose ordinance for same herewith.

Respectfully,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., September 28, 1904.

Mr. J. P. Dunn, City Comptroller, Indianapolis, Ind.:

Dear Sir: Your attention is respectfully called to the death of Michael Federspill, which occurred on the 30th day of July, 1904, and the consequent expiration on that date of the city liquor license issued to him on the 7th day of June, 1904.

By the last will of Michael Federspill, Magdalena Federspill, his wife, is named as the executrix of the estate of the deceased and as such executrix, she respectfully requests that you recommend to the Common Council of the City of Indianapolis that it provide for and authorize the refunding to her of the sum of one hundred and seventy-five dollars (\$175.00) as the balance due her of the license fees for the unexpired part of the year for which the aforesaid license was granted.

Yours respectfully,

CLYDE P. MILLER,
Attorney for Magdalena Federspill.

Which was read.

From the City Comptroller:

INDIANAPOLIS, IND., October 17, 1904.

To the Honorable, the President and Members of the Common Council:
Gentlemen: I transmit herewith letter from the Department of Public Health and Charities, requesting transfers in the City Hospital funds as follows:

From "Plumbing Supplies" to "Surgical Supplies".....	\$180.00
From "Paints and Painting" to "Salaries".....	75.00
From "Electrical Supplies" to "Laundry Supplies".....	67.00
From "Artificial Gas" to "Incidentals".....	40.69
From "Hardware" to "Drugs".....	50.00
From "Telephones" to "Printing and Stationery".....	100.00

I recommend that these transfers be made and inclose ordinance for that purpose.

Respectfully,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., October 17, 1904.

Mr. Jacob Dunn, Comptroller, City:

Dear Sir: I have been instructed by the Board of Health to ask you to submit to the Honorable Council a request from this Department for the following transferal of funds from the City Hospital appropriation:

From "Plumbing Supplies" to "Surgical Supplies".....	\$180.00
From "Paints and Painting" to "Salaries".....	75.00
From "Electrical Supplies" to "Laundry Supplies".....	67.00

From "Artificial Gas" to "Incidentals".....	40.69
From "Hardware" to "Drugs".....	50.00
From "Telephones" to "Printing and Stationery".....	100.00

Very respectfully,

T. VICTOR KEENE,
City Sanitarian and Secretary Board of Health.

Which was read.

REPORTS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, IND., October 14, 1904.

To the President and Members of the Common Council:

Gentlemen: We hereby transmit to you for consideration and action contract granting the Lake Erie & Western Railroad Company the right to lay and maintain a side-track or switch from the main track of the Indianapolis Union Railway Company across Twenty-second street, according to the blue print attached, in the City of Indianapolis, Ind., entered into by the Board and said railroad company October 14, 1904.

Respectfully,

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

Which was read.

REPORTS FROM STANDING COMMITTEES.

From the Finance Committee (majority report):

INDIANAPOLIS, IND., October 17, 1904.

To the President and Members of the Common Council:

We, the undersigned majority members of the Finance Committee, to whom was referred Appropriation Ordinance No. 18, have had same under consideration and recommend that same do pass.

FRANK S. FISHBACK,
M. J. SHEA,
LEW W. COOPER,
J. ED. KRAUSE,

Which was read.

From the Finance Committee (minority report):

To the President and Members of the Common Council:

Gentlemen: The undersigned members of the Finance Committee would respectfully report as follows on Appropriation Ordinance No. 18, 1904:

After giving the subject much time and attention, we have arrived at the following conclusions:

Should this Council appropriate \$25,000.00, as requested in this or-

dinance, it establishes a precedent which if carried out in but four instances, according to the estimates given by the City Engineer, will cause an outlay on the part of the city of \$98,250.00. At the same ratio, the cost to the city for a general elevation of railroad tracks would, according to the same authority, cost the city in excess of \$1,250,000.

The members of this committee do not hesitate to say that they are in favor of track elevation, but with the bonded indebtedness of the city within less than \$200,000 of the 2% limit prescribed by law, they do not think the city should assume such an obligation as the passage of this ordinance would entail.

Should a calamity befall this city as in the recent floods, requiring a large sum of money to repair such damages or loss, some other means than the sale of bonds would have to be resorted to in order to raise such necessary funds.

The recent increase in the tax levy was necessary to provide additional funds to meet the current demands of the various departments of the administration, and as an additional increase in this manner is out of the question, your committee feel that the only way in which the city can possibly share in the costs of such elevations as proposed, would be by the levying of a special tax for that purpose, as the present condition of the finances of the city will not permit of such additional outlay.

No one at present can tell the amount of money a complete system of track elevation will cost the city, but we do know that the present condition of the City Treasury will not warrant such an expenditure as the passing of this ordinance will demand.

We do not consider it the duty of the city to assist in the elevation of railroads and feel that in so doing we would be granting to the railway companies a valuable franchise.

Again, the benefits and damages are not considered, as a whole, and the maintenance of such elevation would, according to the contract, fall upon the city to the extent of 25% of such sums, so long as they existed.

For the above reasons we would respectfully recommend that the ordinance do not pass.

Respectfully submitted,

J. L. GASPER,
W. A. RHODES,
J. H. CRALL,

Which was read.

Mr. Gasper moved the adoption of the minority report.

Mr. Fishback called for the ayes and noes.

Ayes, 12, viz.: Messrs. Crall, Davis, Eppert, Gasper, Hofmann, Linus, Moriarity, Rhodes, Sullivan, Uhl, Wolsiffer and President James H. Billingsley.

Noes, 8, viz.: Messrs. Cooper, Cottley, Fishback, Krause, Murray, Shea, Storm and Wright.

The Chair declared the motion carried.

When the Chair had reached the call for reports from the Committee on Public Morals, Mr. Gasper moved to refer back to reports from the Committee on Finance. Carried.

From the Finance Committee:

INDIANAPOLIS, IND., October 17, 1904.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred General Ordinance No. 77, 1904, have had the same under consideration and would respectfully recommend that the same do pass.

Respectfully submitted,

J. L. GASPER,
J. H. CRALL,
W. A. RHODES,
FRANK S. FISHBACK,
M. J. SHEA,
LEW W. COOPER,
J. ED. KRAUSE,

Which was read.

Mr. Gasper moved that the report of the committee be adopted. Carried.

Mr. Fishback requested the Chairman of the Committee on Public Morals to report on General Ordinance No. 75, 1904.

The Chairman asked for further time.

Mr. Rhodes moved that the Chairman of the Committee on Public Morals be allowed further time in which to report on General Ordinance No. 75, 1904. Carried.

From the Committee on Public Safety and Comfort:

INDIANAPOLIS, IND., October 17, 1904.

To the President and Members of the Common Council:

Your committee, to whom General Ordinance No. 73, 1904, was referred, recommend that same do pass.

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

Which was read.

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

From the Committee on Railroads:

INDIANAPOLIS, IND., October 17, 1904.

To the President and Members of the Common Council:

Your Committee on Railroads, to whom was referred General Ordinance No. 36, 1904, have had same under consideration and recommend

that same be amended as follows: In Section 1, line four (4) we recommend that same be made to read as follows:

Shall be removed therefrom on or before the first day of July, 1905, instead of (shall be removed therefrom on or before the first day of October, 1904,) and when so amended recommend that same do pass.

FRED W. EPERT,
OTTO HOFMANN,
JAMES B. MURRAY,
JOHN WOLSIFFER,

Which was read.

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

INTRODUCTION OF APPROPRIATION ORDINANCES.

By the City Comptroller:

Appropriation Ordinance No. 26—1904: An ordinance appropriating the sum of one hundred and seventy-five dollars (\$175) to the Department of Finance to pay the claim of Magdalena Federspill, executrix, for rebate of liquor license.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of one hundred and seventy-five dollars be and the same is hereby appropriated to the Department of Finance to pay the following claim, made under and by virtue of Section 8 of an act of the General Assembly of the State of Indiana, entitled, "An act to better regulate and restrict the sale of intoxicating liquors," etc., approved March 11, 1895:

To Magdalena Federspill, executrix of the will of Michael Federspill, deceased, the sum of one hundred and seventy-five dollars (\$175).

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 City Comptroller:

General Ordinance No. 78—1904: An ordinance for the transfer of certain funds heretofore appropriated to the Department of Public Health and Charities to other funds of said department.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That there be and is hereby made the following transfers of funds heretofore appropriated to the Department of Public Health and Charities for the City Hospital, to-wit:

From "Plumbing Supplies" to "Surgical Supplies".....	\$180.00
From "Paints and Painting" to "Salaries".....	75.00
From "Electrical Supplies" to "Laundry Supplies".....	67.00
From "Artificial Gas" to "Incidentals".....	40.69

From "Hardware" to "Drugs".....	50.00
From "Telephones" to "Printing and Stationery".....	100.00

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.

By Board of Public Works:

General Ordinance No. 79—1904: An ordinance approving a certain contract granting the Lake Erie & Western Railroad Company the right to lay and maintain a side-track or switch from the main track of the Indianapolis Union Railway Company across Twenty-second street, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to-wit: on the 14th day of October, 1904, the Lake Erie & Western Railroad 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 undersigned hereby petition your honorable body for permission to construct and maintain an interchange track from a connection with the main track of the Indianapolis Union Railway Company on and along the right-of-way of the Lake Erie & Western Railroad Company, crossing Twenty-second street and continuing northerly on the said right-of-way to a connection with its main track near the south line of Twenty-third street, substantially as shown on the plan attached hereto and made a part hereof.

Yours respectfully,
THE LAKE ERIE & WESTERN RAILROAD.

Now, therefore, This agreement, made and entered into this day of _____, 1904, by and between Lake Erie & Western Railroad 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 main track of the Indianapolis Union Railway Company on the right-of-way of the Lake Erie & Western Railroad Company across Twenty-second street in the City of Indianapolis, which is more specifically described as follows:

Beginning at a point 1.5 feet west of the intersection of the east right-of-way line of the L. E. & W. Railroad with the south line of Twenty-second street, thence northerly crossing Twenty-second street to a point on the easterly side of said right-of-way 14½ feet east of the center line of the main of the said Lake Erie & Western Railroad, substantially as shown on the plan attached hereto and made a part hereof, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privilege 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-second 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-second 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
day of _____, 1904.

THE LAKE ERIE & WESTERN R. R. CO.,
By G. C. Cleveland, Asst. Chief Engineer,
Party of the first part.

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

And, Whereacs, 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.

ORDINANCES ON SECOND READING.

Mr. Cooper called for General Ordinance No. 73, 1904, for second reading. It was read a second time.

Mr. Cooper moved that General Ordinance No. 73, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 73, 1904, was read a third time and passed by the following vote:

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

Noes, none.

Mr. Eppert called for General Ordinance No. 36, 1904, for second reading. It was read a second time.

Mr. Eppert moved that General Ordinance No. 36, 1904, be ordered engrossed, read a third time and placed upon its passage. Carried.

Mr. Eppert moved to refer back to the second reading of General Ordinance No. 36, 1904. Carried.

Mr. Eppert moved that General Ordinance No. 36, 1904, be amended as recommended by the committee. Carried.

Mr. Eppert moved that General Ordinance No. 36, 1904, be ordered engrossed as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 36, 1904, was read a third time as amended, and passed by the following vote:

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

Noes, none.

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

Mr. Gasper moved that Appropriation Ordinance No. 18, 1904, be stricken from the files, which motion carried, and the Chair ordered Appropriation Ordinance No. 18, 1904, stricken from the files.

On motion of Mr. Gasper the Common Council, at 8:20 o'clock, P. M., adjourned.

James H. Billingsley

President.

ATTEST:

W. M. Fogarty

City Clerk.

