

PROCEEDINGS  
OF THE  
COMMON COUNCIL.

---

SPECIAL SESSION.

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CHAMBER OF THE COMMON COUNCIL OF THE }  
CITY OF INDIANAPOLIS, }  
*Friday, Feb. 28, 1873, 7 o'clock, P. M.* }

The Common Council met pursuant to adjournment.

Present—His Honor the Mayor, Daniel Macauley, in the chair,  
and the following members :

Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson,  
Gimber, Hardesty, Kahn, Kennington, Pressly, Rush, Sherwood,  
Whitsit, Wiles and Woodburn—16.

Absent—Councilmen Reagan and Thalman—2.

His Honor, the Mayor, announced that the Special Order for the session was the consideration of general ordinance No. 8, 1873, entitled :

An ordinance authorizing the Union Railway Company of the city of Indianapolis to lay additional tracks and to extend the Union Passenger Depot over a portion of Louisiana street, and prescribing certain conditions, restrictions and regulations.

By unanimous consent, Dr. Woodburn presented the following :

The City Solicitor is requested to give his opinion in answer to the following questions :

- 1st. When does the lien for city taxes attach ?
- 2d. Is the personal property the primary fund for the payment of taxes ?
- 3d. Can the real estate only be resorted to on failure of personal ?
- 4th. Is it the duty of the Treasurer to seek for personal property before selling real estate, or is it optional with him to do so or not ?
- 5th. If at this time there is a large amount of real estate advertised for sale for delinquent taxes, and the same should be sold for such tax without personal property first having been sought, out of a large number of such cases might there be many illegal sales, and might it occasion embarrassing consequences to the city revenues ?
- 6th. When taxes are not collected by the third Monday of March should the Treasurer assign reasons why such taxes could not be collected, and should such reasons be noted on the margin of the delinquent list by the City Clerk ?
- 7th. Are lands or lots properly upon the delinquent list unless accompanied by the "reasons" showing why they are delinquent ?
- 8th. If after the first day of January "A" sold real estate to "B," with covenants of general warranty, is "A" liable for the taxes of that year ?
- 9th. If "yes," is his personal property a primary fund out of which such taxes should be made ?
- 10th. If "yes," should the Treasurer seek for personal property of "A" to satisfy the same ?
- 11th. Has the Treasurer the legal right to sell the said real estate of said "B" until he has first sought for and failed to find personal property of said "A" ?
- 12th. *Provided*, It could be shown that "A" had personal property from which said tax might have been made had the Treasurer sought for it at the proper time, and yet the Treasurer without seeking for it had sold said real

estate of "B," could the purchaser at such sale compel "B" to pay the penalty in order to redeem?

13th. Could the city compel him to pay the costs of advertising and sale?

14th. Would the Treasurer be entitled to fees?

15th. If to save said real estate from sale "B" should be compelled to pay such delinquent tax, and should do so under protest, could he recover the amount from the Treasurer personally, or from the city?

16th. If at the proper time the Treasurer could have found the necessary personal property but through his neglect subsequently such property could not be found, is the Treasurer personally liable?

17th. If by reason of such neglect "B" is compelled to pay such tax to save his real estate from sale (and does so under protest), or to pay an amount to redeem it from such sale, can "B" recover the amount from the city or the Treasurer personally?

Which was referred to the City Solicitor.

Dr. Woodburn presented a bill in favor I. N. Aldrich for \$30 for taking enumeration of inhabitants of that part of the Third Ward north of First street and west of Meridian street.

Which was referred to the Committee on Accounts and Claims.

Mr. Craft presented an account in favor of Hedges, Renihan & Hedges, for undertaking, &c., in sundry Small-Pox cases, amount \$50.00.

Which was referred to the Committee on Accounts and Claims.

Mr. Bigham offered the following motion:

*Moved,* That John B. Many have permission to move frame house from Noble to Spring street on graded street.

Which was adopted.

The Special Order was then taken up,

When Mr. Kennington presented the following remonstrance:

INDIANAPOLIS, Feb. 28, 1873.

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

The undersigned, property holders in Square 96 of Indianapolis, respectfully remonstrate against the granting of the proposed right-of-way to the Union Railway Company across Meridian and Illinois streets in a width of 30 feet, as contained in the ordinance now before your honorable body, and the vacation or grant of part of Louisiana street, unless said right of way is restricted to points north of the present south wall of the Union Depot.

Respectfully,

Ad. Seidensticker, Ægidius Naltner, E. H. Winchester,  
Saml. E. Moran, and 8 others.

Which was received.

Mr. Sherwood, from the Committee on Railroads, made the following majority report:

INDIANAPOLIS, Feb. 28, 1873.

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

GENTLEMEN:—Your Committee on Railroads have examined the ordinance respecting the grant of certain privileges to the Union Railway Company, and report the same herewith, and recommend that the said ordinance be amended as herein suggested, and when amended as suggested that the said ordinance shall be enacted.

The committee respectfully recommend the following amendments, to-wit:

That section four of said ordinance be amended by inserting after the word streets, the words, and alleys.

That section six of said ordinance be stricken out and section six reported herewith be inserted in lieu thereof.

That there shall be added to said ordinance a section reading as follows, viz.:

Sec. —. It shall be the duty of the Mayor to notify said Union Railway Company of the passage of this ordinance, and that this ordinance shall take effect from and after the time such Company shall notify the Mayor that the said Company will accept the provisions hereof, which notice the Company shall give within twenty days from the receipt of such notice.

Respectfully submitted,

L. Q. SHERWOOD,  
E. J. HARDESTY,  
ROBERT KENNINGTON,  
Railroad Committee.

Which, on motion of Dr. Woodburn, was approved, concurred in, and ordinance amended in accordance therewith.



The ordinance was then read the second time and acted upon by section.

Mr. Kennington offered the following as an amendment to section 2:

*Provided however,* That if any track or tracks are laid in the open or public place north of the north line of McNabb street and south of the present south wall of the Union Depot, the right-of-way across Meridian and Illinois streets shall not take effect unless the south wall of said Depot is moved so as to cover and inclose said track or tracks within the Depot.

The question being on the adoption of the amendment as offered by Mr. Kennington, the ayes and noes were demanded.

Those who voted in the affirmative were Councilmen Bigham, Bollman, Craft, Gimber, Kahn, Kennington and Whitsit—7.

Those who voted in the negative were Councilmen Batty, Cottrell, Gibson, Hardesty, Pressly, Rush, Sherwood, Wiles and Woodburn—9.

So the amendment was not adopted.

Mr. Wiles offered the following amendment to section 2:

*Moved,* That the second section of said ordinance be amended by adding thereto the following:

“The said Union Railway Company is authorized to lay an additional union track upon and along Maryland street east from Liberty street to the old corporation line east, and the said Union Company shall permit the track so laid to be used by the Indianapolis, Cincinnati and Lafayette Railroad Company, should said Company take up its tracks on Louisiana street, and run into the city upon a route which will properly intersect and connect with the tracks which may be laid in Maryland street.”

Which was adopted, and ordinance so amended by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Pressly, Rush, Sherwood, Whitsit, Wiles and Woodburn—15.

Negative—Councilman Kennington—1.

Section 4 was amended by adding after the word "streets" the words "and alleys."

Mr. Whitsit moved to strike out the proviso at the end of the 4th section.

Which was adopted.

The 5th section was adopted.

The 6th section was stricken out, and the section reported by the Committee substituted therefor.

Mr. Whitsit moved to amend the 7th section by striking out the words "during the progress of the work of laying tracks."

Which was adopted, and said clause stricken out.

Mr. Cottrell moved to reconsider the vote by which Mr. Kennington's amendment to section 2 was lost.

Which motion to reconsider was not adopted.

The question then being on the engrossment of the ordinance,

Mr. Craft offered the following amendment to section 2:

And no tracks shall be laid on the north line of McNabb street, unless such track or tracks shall be screened or hid from McNabb street by a wall or other proper screen.

Which was laid on the table by the following vote:

Affirmative—Councilmen Batty, Bigham, Gibson, Hardesty, Pressly, Rush, Sherwood, Wiles and Woodburn—9.

Negative—Councilmen Bollman, Cottrell, Craft, Gimber, Kahn, Kennington and Whitsit—7.

Mr. Kennington offered the following:

To amend the second section, that there shall be no railroad tracks laid south of the south wall of the Union Depot.

Which, on motion by Mr. Hardesty, was laid on the table by the following vote:

Affirmative—Councilmen Craft, Gibson, Hardesty, Pressly, Rush, Sherwood, Whitsit, Wiles and Woodburn—9.

Negative—Councilmen Batty, Bigham, Bollman, Cottrell, Gimber, Kahn and Kennington—7.

The ordinance was ordered engrossed by the following vote:

Affirmative—Councilmen Batty, Gibson, Hardesty, Pressly, Rush, Sherwood, Whitsit, Wiles and Woodburn—9.

Negative—Councilmen Bigham, Bollman, Cottrell, Craft, Gimber, Kahn and Kennington—7.

The ordinance was then read the third time and passed by the following vote:

Affirmative—Councilmen Batty, Gibson, Hardesty, Kahn, Pressly, Rush, Sherwood, Whitsit, Wiles and Woodburn—10.

Negative—Councilmen Bigham, Bollman, Cottrell, Craft, Gimber and Kennington—6.

Mr. Gibson moved that the vote by which the ordinance was passed be reconsidered.

Dr. Woodburn moved to lay the motion to reconsider on the table.

Which was adopted by the following vote:

Affirmative—Councilmen Bigham, Gibson, Hardesty, Pressly, Rush, Sherwood, Wiles and Woodburn—8.

Negative—Councilmen Batty, Bollman, Cottrell, Craft, Gimber, Kahn, Kennington and Whitsit—8.

There being a tie vote His Honor, the Mayor, voted in the affirmative.

So the motion to reconsider was laid on the table.



Mr. Gimber offered the following resolution :

*Resolved*, That the Common Council of the city are ready and willing to grant the Union Railway Company the right to use the whole of McNabb street; provided that the said company shall arbitrate the matter and pay the property owners such value for their property as the arbitrators may decide and award, and that when this shall be done the Common Council will vacate for railway purposes the whole of McNabb street.

Which was adopted by the following vote :

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Rush, Sherwood, Whitsit, Wiles and Woodburn—16.

Negative—None.

Mr. Wiles presented the following petition :

INDIANAPOLIS, Feb. 27, 1873.

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

GENTLEMEN:—We, the undersigned property owners and parties interested, respectfully petition your honorable body to vacate the twenty (20) foot alley lying between lots numbered 113, 129, 130, 146 and 147, in Ingram Fletcher's Third and Fourth Additions to the city of Indianapolis, and the right-of-way of the Cleveland, Columbus, Cincinnati and Indianapolis Railway Company from Beeler street to Orange avenue, as per plat filed herewith.

The object of said vacation being as follows: To provide the necessary width of ground and right-of-way for the construction, grading, laying down and operating one additional railway track from Brightwood to the city of Indianapolis, of which the ground herein prayed for to be vacated is a part in a continuous and connected right-of-way between Brightwood and the city of Indianapolis for the purposes hereinbefore named.

Chester G. Bartholomew, Sewing Machine Cab. Co., Bennett  
F. Morris and C. C. C. & I. Railway Co.

Which was referred to the Committee on Streets and Alleys.

Mr. Wiles presented the following :

INDIANAPOLIS, Feb. 28, 1873.

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

GENTLEMEN:—We have recently moved our factory from Lafayette to this



city and are now engaged in the manufacture of grain measures and baskets, and respectfully ask that you grant us the privilege of sealing our own measures, the same privilege having been granted us by the city of Lafayette.

Respectfully yours,

A. S. VORHIS & CO.

Which was referred to the Committee on Markets.

On motion by Mr. Batty, the vote by which special ordinances Nos. 145, 146 and 192, 1872, were passed, was reconsidered and laid over for further action.

On motion the Council adjourned.

DANIEL MACAULEY, Mayor.

ATTEST:

JOHN R. CLINTON, City Clerk.