

PROCEEDINGS
OF THE
COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE }
CITY OF INDIANAPOLIS, }
MONDAY, MARCH 19TH, 1866, 7 O'CLOCK, P. M. }

The Common Council met in regular session.

Present—His Honor, the Mayor, John Caven, in the chair, and the following members at first roll-call:

Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Glazier, Grosvenor, Kappes, Loomis, MacArthur, Schmidt, Seidensticker, Staub and Thompson—15.

Absent—Councilmen Fletcher and Jameson—2.

The proceedings of the regular session, held March 12th, 1866, were read and approved.

His Honor, the Mayor, announced that the first business in order was the consideration of general ordinances numbered 41 and 42, and the matters and things connected therewith.

Mr. Brown moved that general ordinance No. 42, entitled:

AN ORDINANCE investing the Indianapolis Gas Light and Coke Company with the privilege of furnishing gas to the city and inhabitants of Indianapolis, upon certain conditions therein named,

Be taken up and read, with all the proposed amendments, for information.

Which motion prevailed.

The ordinance and proposed amendments were then read.

Mr. MacArthur moved—

That any speech made on the pending question be limited in length to 10 minutes time.

The question being on the adoption of the motion, Mr. Grosvenor called for the ayes and noes.

Those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Colley, Emerson, Glazier, Loomis and MacArthur—8.

Those who voted in the negative were Councilmen Coburn, Grosvenor, Jameson, Kappes, Schmidt, Seidenstickr, Staub and Thompson—8.

There being a tie vote, His Honor, the Mayor, voted in the negative; making, ayes, 8; nays, 9.

So the motion was not adopted.

Mr. Grosvenor presented the following communication:

INDIANAPOLIS, March 19, 1866.

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

GENTLEMEN:—I have carefully examined the ordinance reported by Mr. Brown at your last meeting, giving to the Indianapolis Gas Light and Coke Company the charter and privilege of furnishing gas to the city and citizens of Indianapolis for twenty years from the passage of said ordinance. And while the company I represent are anxious and willing to accept the ordinance reported by the majority of your committee, giving the right to the Citizens' Gas Light and Coke Company, yet they regard the ordinance giving the right to the Indianapolis Gas Light and Coke Company so much more favorable to the Gas Company, that said Citizens' Gas Light and Coke Company have authorized me to say that they will accept said first named ordinance with an amendment (accompanying this communication) giving to the City of Indianapolis, free of charge during the continuance of said charter, gas to the amount and value of fifteen thousand dollars, rating the same at a price not to exceed three dollars per thousand feet.

Respectfully submitted,

R. B. CATHERWOOD, President.

AMENDMENT TO SECTION.

"*Provided*, That from each monthly account, rendered against the City of Indianapolis for gas furnished the city by said Citizens' Gas Light and Coke Company, there shall be deducted the sum of sixty-three dollars, which said sum shall be deducted from the bill of said company for each and every month during the continuance of this ordinance, the same being designed to cover the sum of fifteen thousand dollars' worth of gas to be, by said company, furnished to the City of Indianapolis free of charge, at a rate not exceeding three dollars per thousand feet during the twenty years this ordinance may be in force, and that the said company, by accepting this ordinance, shall be held to be accepting and agreeing to comply with this condition.

Which, on motion, was laid on the table.

Mr. Brown then moved that general ordinance No. 42 be taken up

on its second reading, and that the pending amendments be acted upon in their proper order, on the reading of the ordinance.

Which motion prevailed.

The ordinance was then taken up on its second reading.

Mr. Loomis moved to amend section 2d by adding at the end of said section the following proviso :

Provided, That city warrants shall be received at par in payment for two years from the 4th of March, 1866, for all gas furnished the city by said company, and that the Common Council, at all times, shall have the right to regulate the time of lighting and extinguishing the street lamps, and otherwise determining the quantity of gas to be consumed by the city.

Mr. Smith moved to amend Mr. Loomis' amendment by striking out the words "for two years from the 4th of March, 1866," between the words "payment" and "for," in the second line of said amendment.

Which motion was adopted.

Mr. Seidensticker moved to further amend Mr. Loomis' amendment by adding the following :

Provided, That the price to be charged to the city shall always be fifteen per cent. less than that charged to private consumers."

After considerable discussion on the amendment to the amendment, Mr. Loomis moved to lay Mr. Seidensticker's motion on the table.

The ayes and noes were called for.

Those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Colley, Glazier, Jameson, Loomis, MacArthur, Staub and Thompson—10.

Those who voted in the negative were Councilmen Coburn, Emerson, Grosvenor, Kappes, Schmidt and Seidensticker—6.

So the motion to amend Mr. Loomis' amendment was laid upon the table.

Mr. Kappes moved to amend Mr. Loomis' amendment, by adding the following : "That the city be furnished gas at ten per cent. less than private consumers."

Mr. Boaz, moved to lay Mr. Kappes' amendment to the amendment on the table.

The ayes and noes were called for.

Those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Colley, Emerson, Glazier, Jameson, Loomis, MacArthur, Staub and Thompson—11.

Those who voted in the negative were Councilmen Coburn, Grosvenor, Kappes, Schmidt and Seidensticker—5.

So the amendment to the amendment was laid upon the table.

Mr. Loomis' amendment, as amended by motion of Mr. Smith by striking out the words "two years from the 4th of March, 1866," was then adopted.

Mr. Smith moved to further amend section 2d by striking out the words "exclusive of government tax," in the third line of said section, and insert in lieu thereof the words "inclusive of government tax."

The question being on the adoption of the amendment, the ayes and noes were called for.

Those who voted in the affirmative were Councilmen Coburn, Emerson, Grosvenor, Kappes, Schmidt and Seidensticker—6.

Those who voted in the negative were Councilmen Allen, Boaz, Brown, Colley, Glazier, Jameson, Loomis, MacArthur, Staub and Thompson—10.

So the amendment was not adopted.

Dr. Jameson moved to amend by inserting between the words "gutters and sidewalks thereafter," and the words "and furthermore," in the eleventh and twelfth lines of the third section, the words "nor for tapping any mains."

Which amendment was adopted.

Dr. Jameson moved to amend by striking out the word "inspect," and the word "test," in the eighteenth line of the third section, and insert in lieu of the word "inspect," the words "test the accuracy of."

Which amendment was adopted.

Dr. Jameson also moved to amend by striking out the word "the," at the end of the third line of the fifth section.

Which amendment was adopted.

Mr. Loomis moved to amend by adding the following proviso at the end of section 6, to-wit:

Provided, That whenever any property owners, embracing a space of 510 feet contiguous to the mains of said company, on and along any street or thoroughfare of the said City of Indianapolis, shall signify, by petition to the Common Council, their desire to use gas, the said Indianapolis Gas Light and Coke Company shall within sixty days after the filing of said petition, and its approval by the Council, at any period between the first day of March and the first day of November, of each year, proceed to lay down the necessary and proper mains and service pipes along said street or thoroughfare: *Provided further*, That the citizens along the line of said street or thoroughfare shall obligate themselves to take fifteen or more burners, and use the same for gas, to each such space of 510 feet, along which said mains and service pipes shall be so laid: *Provided*, That the public grounds of the city, county, or State shall be excepted in this rule.

Which amendment was adopted.

Mr. Seidensticker moved to amend by adding, as sections 8 and 9, to follow section 7, and come before the enacting section of said ordinance, the following, to-wit:

SEC. 8. At the expiration of ten years after the passage of this ordinance, and at any time thereafter while it shall remain in force, the city shall have the right to purchase the works of said Indianapolis Gas Light and Coke Company by paying therefor the value of all lots, buildings, machinery, gasometers, mains, service pipes, meters, and all other materials belonging to said Company, indispensable to the manufacture and sale of gas for lighting purposes, the value of the same to be determined by a just and fair appraisement, to be made in the manner hereinafter provided, and without any reference whatever to the value of any right, privilege, stock, or bonds, belonging to said Company, and to the entire exclusion thereof.

SEC. 9. The appraisement contemplated by the next preceding section shall be made by two competent persons, and the same shall be duly sworn to. One of said persons shall be chosen by the Common Council and one by said Indianapolis Gas Light and Coke Company, and, in case of their disagreement, they may select a third one, any two of whom shall make said appraisement. For the purpose of making such appraisement, the Council may require a statement, under oath, of the President of the Company, containing all such information as the Common Council may deem important; and should the Company fail to appoint appraisers within the time fixed by the Common Council, then the Council may appoint all of such appraisers, and the appraisement when made shall be binding upon the said Company. After said appraisement shall have been made, the city of Indianapolis may, at the option of the Common Council thereof, purchase the property of said Company so appraised, to be held by said city, or immediately transferred, in whole or in part, to any other party or Company desiring to engage in the manufacture of gas, and coke for the purpose contemplated by this ordinance. *Provided*, Said other party or Company shall be bound by said transfer, to furnish gas to the city and other consumers thereof, for the then unexpired time for which this ordinance shall then have to remain in force, at a rate less by fifteen per cent. than the average cost of gas, as shall have been furnished by the Indianapolis Gas Light and Coke Company during the year next preceding the time of making the appraisement as aforesaid.

After considerable discussion on the subject, Mr. Brown called for the previous question on the adoption of the amendment.

The question being, "Shall the main question be now put?" Those who voted in the affirmative were Councilmen Allen, Boaz, Brown,

Coburn, Colley, Emerson, Glazier, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker, Staub and Thompson—15.

Councilman Grosvenor voting in the negative—1.

The question then being on the adoption of Mr. Seidensticker's amendment, the ayes and noes were called for.

Those who voted in the affirmative were Councilmen Coburn, Grosvenor, Jameson, Kappes, Schmidt and Seidensticker—6.

Those who voted in the negative were Councilmen Allen, Boaz, Brown, Colley, Emerson, Glazier, Loomis, MacArthur, Staub and Thompson—10.

So the amendment was not adopted.

General ordinance, No. 42, having been read the second time, Mr. Grosvenor called for the reading of general ordinance No. 41, entitled:

AN ORDINANCE investing the Citizens' Gas Light and Coke Company with the privilege of furnishing gas to the city and citizens of Indianapolis, upon certain conditions therein named,

Which was taken up and read the second time.

Mr. Brown then moved that general ordinance No. 42, be taken up, read the third time, and placed upon its passage.

Which motion prevailed.

General ordinance No. 42, as amended, was then taken up, and read the third time, as follows:

AN ORDINANCE investing the Indianapolis Gas Light and Coke Company with the privilege of furnishing gas to the city and inhabitants of Indianapolis, upon certain conditions therein named.

SECTION 1. *Be it ordained by the Common Council of the City of Indianapolis,* That the Indianapolis Gas Light and Coke Company be, and they are hereby invested with the exclusive privilege for the term of twenty years from the fourth day of March, 1866, of using the streets, lanes, alleys and public grounds of said city, as it is now laid out, or may hereafter be laid out or enlarged, for the purpose of laying down in said streets, etc., pipes for the conveyance of gas in and through the said city, for the use of said city and its inhabitants; *Provided,* That the said Company, by its Board of Directors, on their records to be certified to the Mayor of the city, shall agree and bind itself within five days hereafter, to accept the conditions set forth in this ordinance.

SEC. 2. The price at which said Company shall furnish the city and its inhabitants with gas shall not exceed the following rates: three dollars for each thousand cubic feet, exclusive of government tax: *Provided,* City warrants shall be received at par in payment for all gas furnished the City by said Company, and that the Common Council, at all times, shall have the right to regulate the time of lighting and extinguishing the street lamps, and otherwise determining the quantity of gas to be consumed by the City.

SEC. 3. The gas sold by said Company, except in case of emergency or acci-

dent, shall be free from all non-inflamable poisonous qualities, and, in all other respects, of the highest standard of purity; and the same shall be supplied promptly, and in sufficient quantity, by said Company to all paying consumers thereof, and to all persons applying therefor, on or adjacent to any street or alley along which the mains of said Company shall have been extended, and shall, upon application in writing, promptly lay all necessary service pipes in or across any street, gutter, sidewalk or alley. And said Company shall make no charge for any meter, nor for the rent of the same; nor shall any charge be made by said Company for service pipe laid in any street, gutter or sidewalk, nor for laying said pipe, nor for properly repairing all streets, gutters and sidewalks thereafter, nor for tapping any main. And, furthermore, said Company shall not charge more for making any connection between its pipes and those of any person applying for gas, nor for the setting of any meter, than the actual cost of doing the same. All gas sold shall be accurately measured by said Company at its own expense and without any charge, either direct or indirect, to any consumer thereof. Such Company shall furnish all facilities in its possession to any agent that may be appointed by the Common Council to test the accuracy of meters, or the purity of the gas furnished by said Company.

SEC. 4. If said Indianapolis Gas Light and Coke Company shall fail, in good faith, to comply with any or all of the provisions of this ordinance, or shall violate any of said provisions, then, and in such case, they shall forfeit all the rights and privileges under said contract, and the Common Council may, at any time thereafter, repeal the same, said failure to be determined by judicial decision.

SEC. 5. That if any discovery or improvement be made in the preparation of gas from coal or other material, either solid or liquid, by which the cost of obtaining the same shall be materially diminished, and the same shall be adopted in other principal cities of the country, then, in such case, the Company aforesaid shall introduce and use such discovery or improvements in said city of Indianapolis, and make such reduction in the price of gas sold, as shall be proportionable to the saving effected by such discovery or improvement.

SEC. 6. That whenever the Company, as aforesaid, proposes to open any street, lane or alley, etc., for the purpose of laying down gas pipes, they shall give to the Street Commissioner three days notice thereof, and shall not, during the progress of their work, unnecessarily obstruct the passage of such street, lane or alley, etc.; and, further, they shall, within a reasonable time, repair such portion of any street, lane or alley, etc., as they may have broken up, in such manner as shall be acceptable to the Street Commissioner. The said gas pipes shall not interfere with the drainage of said city, by the necessary construction of sewers or other underground fixtures for the conveyance of water for the supply of said city, and when the same shall be necessary, such Company shall remove the gas pipes at their own expense: *Provided*, That whenever any property owners, embracing a space of 510 feet contiguous to the mains of said Company, on or along any street or thoroughfare of the said City of Indianapolis, shall signify by petition to the Common Council, their desire to use gas, the said Indianapolis Gas Light and Coke Company, shall, within sixty days after the filing of said petition, and its approval by the Council, at any period between the first day of March and the first day of November of each year, proceed to lay down the necessary and proper mains and service pipes along said street or thoroughfare: *Provided further*, That the citizens along the line of said street or thoroughfare, shall obligate themselves to take fifteen or more burners and use the same for gas to each such space of 510 feet along which said mains and service pipes shall be so laid: *Provided*, That the public grounds of the city, county or State, shall be excepted in this rule.

SEC. 7. The Indianapolis Gas Light and Coke Company, and every person acting in their employment, who shall dig any trench in any public street, sidewalk, or alley of such city, for the purpose of laying, taking up, or repairing any gas pipe, or for any lawful purpose, shall fill the same again as early as practicable, like the adjoining part of the street, and, if the place at which such trench was dug shall subsequently sink or get out of repair, in consequence of such digging and filling, the Company or person having dug the same shall repair it forthwith, and for a neglect so to do shall be liable for all costs of putting such place in good repair, to be collected in an action of debt; or, the city may cause the work to be done, and retain the amount of the cost thereof out of any moneys due to the Company, and the Company shall be liable for any damages to any person or property resulting from any neglect or fault of themselves or their employees,

and should the city be sued therefor, shall be notified of such suit, and thereupon it shall be the duty of such Company to defend the same, and should a judgment be recovered against the city, the city shall recover the amount, with all costs, from the Company, and the record of such judgment against the city shall be final and conclusive evidence in the cause.

SEC. 8. This ordinance shall be in force from and after the filing with the Mayor of the city, of the certified copy from the records of the Board of Directors of such Company, accepting the terms and conditions herein set forth, and it is hereby made the duty of the Mayor to make proclamation of such acceptance, accompanying such publication with a copy of this ordinance.

Ordained and established this 19th day of March, A. D. 1866.

JOHN CAVEN, *Mayor*.

Attest:

C. S. BUTTERFIELD, *City Clerk*.

And was then placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Boaz, Brown, Colley, Emerson, Glazier, Jameson, Loomis, MacArthur, Staub and Thompson—11.

Those who voted in the negative were Councilmen Coburn, Grosvenor, Kappes, Schmidt and Seidensticker—5.

So the ordinance passed.

Mr. Seidensticker moved that the sealed proposals advertised to be received by Council at this meeting, be taken up and referred to the Board of Public Improvements.

Which motion prevailed.

Mr. Brown moved—

That the Committee on Printing and Stationery be instructed to have printed a sufficient number of the ordinances regulating the running of railroad trains, &c., to supply each Railroad Company having tracks in the city with 25 copies, and that such ordinance be printed in pamphlet form of the same size as the Rules and Regulations of the City Council. The Clerk is hereby instructed to cause each Railroad Company to be supplied with the requisite number of copies as soon as printed.

Which motion prevailed.

Mr. Brown moved—

That the ordinance regulating the running of railroad trains through the city, &c., be enforced by the Police officers from and after Wednesday morning next.

Which motion prevailed.

By His Honor, the Mayor—Report :

MAYOR'S OFFICE, }
Indianapolis, March 12, 1866. }

To the Common Council of the City of Indianapolis :

GENTLEMEN:—The amount of fines collected by me during the month of February, 1866, is \$514.11, which amount I have paid the City Treasurer, as per duplicate receipt hereto attached.

Respectfully submitted,

JOHN CAVEN, *Mayor*.

Which, on motion, was accepted and approved.

UNFINISHED BUSINESS.

Mr. Allen presented a affidavit from Chesley Reynolds to the effect that he (Reynolds) was of the proper age to be exempt from paying poll tax, and asked that the poll tax assessed against him be stricken from the tax duplicate.

Which, on motion, was referred to the Committee on Finance.

Mr. Emerson moved that when the Council adjourn it adjourn to meet on Thursday the 22d inst., at 7 o'clock P. M.

Which motion was adopted. •

On motion of Mr. Colley, the Council adjourned.

Present at roll-call on adjournment: Councilmen Allen, Boaz, Brown, Coburn, Colley, Emerson, Glazier, Grosvenor, Jameson, Kappes, Loomis, MacArthur, Schmidt, Seidensticker, Staub and Thompson—15.

JOHN CAVEN, *Mayor*.

ATTEST :

C. S. BUTTERFIELD, *City Clerk*.