PROCEEDINGS

OF THE

COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE CITY OF INDIANAPOLIS,

Monday, Nov. 4, 1872, 7 o'clock, P. M.

The Common Council met in regular session.

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

Present—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Absent-None.

The proceedings of the regular session, held October 28th, 1872, were read and approved.

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The City Civil Engineer made the following report:

Indianapolis, Nov. 4, 1872.

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

Gentlemen:—I hereby report the following work finished according to contract:

John Schier, Esq., first and final estimate for grading and paving the west sidewalk on Alabama street, from Washington street to Virginia avenue.

Length of pavement 521 ft. 10 in., at \$1.11 per lineal foot...... \$579 23

Also, Patterson & Dunning, first and final estimate for grading and bouldering Sciota alley from Washington to Market street:

Also, R. M. Riner, first and final estimate for building cement pipe sewer drain on Howard and Sixth streets, being a continuation of Tinker street sewer:

1103.5 feet of pipe at \$2.85 per foot\$3,144	97
2 man-holes at \$1950 each 39	00
1 catch-basin at \$93 93	-00
1 grate at \$1.00 1	00
Protection at Canal	20

Also, August Richter, second partial estimate for building stone arches over Pogue's Run on East street:

185.37 cubic yards of stone masonry at \$6.95 per yard	\$0,408	32
1129 2 yards of excavation at 40 cents per yard	451	68
579 6 yards of embankment at 35 cents per yard	202	86
30,827 feet of timber in foundations, at \$2.25 per 100 ft. B. M	693	60
1209 feet timber in hand-rail at \$3.25 per 100 feet, B. M	39	29

Total estimate	\$6,845 75
Deduct for material on the ground	110 00
Also, deduct former payment	3,710 90

Present payment......\$3,024 85

Also, same, for finishing the masonry for bridge over western arm of Canal at the crossing of Washington street:

56.1 cubic yards of masonry at \$6.00 per yard.... \$336 60

Also, Macauley & Alexander, first and final estimate for grading and paving with Lefler stone the north sidewalk on Washington street, from Arsenal avenue to the corporation line east:
3186 square feet, at 23 cents per square foot. \$\cdots\$\cd
Also, J. J. Palmer, third and final estimate for laying block pavement on Illinois street from Washington street to the first alley south of Georgia st.:
8720 1 square yards, at \$2 04 per square yard. \$17,789 00 185 feet new curb, at 65 cents per foot. 120 25 1274.1 feet of old curb reset at 15 cents. 191 11 180 feet of pipe at Georgia street, at 90 cents per foot. 162 00 4 elbows at \$1.50 each. 6 00 6 protection stone, at \$6 00 each. 36 00
Total\$18.304 36
Deduct former payment 14,079 16
Present payment\$4,225 20 Respectfully submitted,
R. M. PATTERSON, Civil Engineer.
Which was concurred in.
The Sewerage Engineer made the following report:
Indianapolis, Nov. 4, 1872.
To the Mayor and Common Council of the City of Indianapolis:
GENTLEMEN:—The following is the fifth and final estimate allowed Jesse Whitsit on account of the first division of the Illinois street sewer:
3105\frac{1}{2} lineal feet of sewer at \$7.42
4 catch basins, extra size, at \$152.00 608 00
· ·
4 catch basins, extra size, at \$152.00 608 00 Total

9,520 50

Less 15 per cent	927	40
\$5,		
Less former payment 1,	498	38
Present payment\$3,	756	92
The fourth estimate made Oct. 9th, 1872, included a portion of both sions, which are separated in the present estimate.	h di	vi-
Also, the following seventh and partial estimate allowed John A. V on account of the Illinois street tunnel.	Vhit	sit
Excavation \$5,	960	001
	250	
250 feet of pipe		
Masonry 48,	000	00"
\$54,	610	001
Less 15 per cent 8,	191	50
\$46,	418	50
Less former payments	898	()()°

J. W. BROWN, Sewer Engineer.

Which was concurred in-

The City Clerk made the following report:

Seventh payment.....

INDIANAPOLIS, Nov. 4, 1872.

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

GENTLEMEN:—The City Clerk would respectfully report:

FIRST.

Respectfully submitted,

First and final estimate allowed John Schier for grading and paving the west sidewalk of Alabama street from Washington street to Virginia ave.

SECOND.

First and final estimate allowed Patterson & Dunning for grading and bouldering Sciota alley from Washington to Market street.

THIRD.

First and final estimate allowed Macauley & Alexander for grading and paving with Lefler paving stone the north sidewalk of Washington street from Arsenal avenue to the corporation line east.

FOURTH.

Third and final estimate allowed John J. Palmer for grading and paving with wooden block pavement Illinois street from Washington street to the first alley south of Georgia street.

Respectfully submitted.

JOHN R. CLINTON, City Clerk.

Which was concurred in.

Also, the following resolution:

Resolved, That the foregoing first and final estimate of John Schier for grading and paving with brick the west sidewalk of Alabama street from Washington street to Virginia avenue, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

Which was adopted by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Also, the following resolution:

Resolved, That the foregoing first and final estimate of Patterson & Dunning for grading and bouldering Sciota alley from Washington street to Market street, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

Which was adopted by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Also, the following resolution:

Resolved, That the foregoing first and final estimate of Macauley & Alexander for grading and paving with Lefter paving stone the north sidewalk of Washington street from Arsenal avenue to the corporation line east, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

Which was adopted by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Also, the following resolution:

Resolved, That the foregoing third and final estimate of John J. Palmer for grading and paving with wooden block pavement Illinois street from Washington street to the first alley south of Georgia street, be, and the same is hereby, adopted as the estimate of this Council, and that the property owners are hereby required to pay the sums set opposite their respective names.

Which was adopted by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Sherwood, Thalman, Whitsit, Wiles and Woodburn—17a.

Negative-Councilman Rush-1.

The City Clerk made the following report:

OFFICE OF CETY CAERE, Indianapolis, Nov. 4, 1872.

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

Gentlemen:—The City Clerk would respectfully report the following affidavit now on file in his office for the collection of street assessment by precept, to-wit:

John Greene vs. Joseph Lochle, for \$31.97.

And would respectfully request you to order the precept to issue.

Respectfully Submitted,

JOHN R. CLINTON, City Clerk.

Which was concurred in and precept ordered to issue.

The Market Master made the following report:

Indianapolis, Nov. 4, 1872.

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

Gentlemen:—The Market Master would respectfully report to your honorable body that he has collected and paid into the City Treasury the sum of (\$1,102.25) eleven hundred and two dollars and twenty-five cents, the same being collected on account of stand and stall rents, since May 15th, 1872, for which I have the City Treasurer's receipt.

Yours respectfully,

JOHN UNVERSAW, Market Master.

Which was concurred in.

The Board of Health made the following report:

Indianapolis, Nov. 4, 1872.

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

Gentlemen:—The Board of Health submits the following mortality report for the week ending Nov. 4, 1872:

Under 1 year 8
From 1 to 2 years 3
From 2 and 5 years 0
From 5 to 10 years
From 10 to 15 years 0
From 15 to 20 years 0
From 20 to 25 years
From 25 to 30 years 0
From 30 to 40 years
From 40 to 50 years
From 50 to 60 years 1
From 60 to 70 years 1
From 70 to 80 years
From 80 to 90 years 0
From 90 to 100 years 0
100 and upwards 0
Unknown 0
Total
TOTAL

Respectfully submitted,

J. A. COMINGOR, M. D., Pres't.

W. WANDS, M. D., Secretary.

Which was received.

The City Attorney made the following report:

INDIANAPOLIS, Nov. 4, 1872.

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

Gentlemen:—The report of your Special Committee, to whom was referred a bill of the Indianapolis Gas Light and Coke Company, recommending that the same be referred to the City Attorney, with instructions to report whether the city is compelled to pay for the items as charged, under the contract with the city and said company, has been handed me by the City Clerk, together with the bill of items as charged. I have examined the same, and beg leave to report that an ordinance 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," ordained March 19, 1866, provides by section 6 thereof, that the "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." See Compilation of Ordinances 1869, page 174.

It will be seen that no reference whatever is made to tunnels in the ordidinance, but reference is only made to sewerage and water works.

The contract between the city and the Gas Company, made May 1, 1868, reaffirms the ordinance. See Compilation of Ordinances, 1869, page 178.

I am of the opinion that the city is liable to said company for any damage sustained by her in the removal of her piping in constructing the Illinois street tunnel.

As to the correctness of the claim as to amount, I know nothing.

Very respectfully,

J. S. HARVEY, City Attorney.

Which was referred to the Committee on Judiciary and Committee on Gas Light.

The City Clerk presented the following report:

INDIANAPOLIS, Nov. 4, 1872.

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

GENTLEMEN:—We, the undersigned, appointed by the Finance Committee to obtain the notes given by James G. and S. M. Douglass, Charles Richmann and Dr. Butterfield, in C. S. Butterfield's defalcation case, respectfully report to your honorable body that the notes given by James G. and S. M. Douglass and Charles Richmann remain unpaid, and that two notes of Dr. Butterfield have been fully paid, and that the note remaining unpaid does not mature

until Dec. 27, 1872; and we respectfully suggest that the notes not yet due be placed in Bank for collection.

Very respectfully,

Your ob't servants,

JOHN W. COONS, City Treasurer. JOHN R. CLINTON, City Clerk.

Which was concurred in.

His Honor, the Mayor, presented the following:

RECEIVER'S OFFICE I. C. & L. RAILROAD, Cincinnati, Ohio, Oct. 24, 1872.

To His Honor the Mayor and Members of the Common Council:

GENTLEMEN:—We, the Officers of the I. C. & L. Railroad, M. E. Ingalls, Receiver, and G. L. Barringer, Sup't, will meet your Committee in the matter now pending before your honorable body, of changing I. C. & L. R. R. track from Louisiana street to Maryland street down Pogue's Run, &c., at I. C. & L. Depot, Nov. 28th, 1872, at 2 o'clock, P. M.

Yours, with respect,

M. E. INGALLS, Receiver.

Which was received.

The report of the City Commissioners, submitted to Council Oct. 21, 1872, in regard to the condemnation of the White River Gravel Road within the city limits, was taken up and, on motion by Dr. Woodburn, accepted and approved by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

The report of the City Commissioners, submitted to Council October 21st, 1872, in relation to the widening and straightening Washington street west of White River, was called up, and on motion by Mr. Gibson, accepted and approved by the following vote:

Non.

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

Negative—Councilmen Bigham and Thalman—2.

The report of the City Commissioners, submitted to Council October 21, 1872, in regard to condemning the Pogue's Creek Gravel Road, or so much thereof as lies within the city limits,

Was taken up, and on motion by Mr. Wiles, accepted and approved by the following vote:

Affirmative—Councilmen Batty, Cottrell, Craft, Gibson, Gimber, Kahn, Pressly, Sherwood, Thalman, Whitsit, Wiles and Woodburn—12.

Negative—Councilmen Bigham, Bollman, Hardesty, Kennington, Reagan and Rush—6.

ORDINANCES ON FIRST READING.

Mr. Pressly presented the following petition:

INDIANAPOLIS, Nov. 4, 1872.

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

Sirs:—We, the undersigned, owning property on East Grant street, do petition your honorable body requesting said street be graded, and east sidewalk graded and graveled, from Michigan avenue to Bates street.

Hoping you will give this due attention, very respectfully,

Sam'l Hoffner, Elisha Millard, H. Clure, John Gattschall, M. R. Miller, J. B. Hill and John F. Hill.

Which was received.

Mr. Pressly introduced special ordinance No. 190, 1872, entitled:

An ordinance to provide for grading and graveling East Grant street and east sidewalk from Michigan avenue, or Road, to Bates street.

Which was read the first time.

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Mr. Kahn introduced special appropriation ordinance No. 62, 1872, entitled:

An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis for the month of October, 1872.

Which was read the first time.

By consent Mr. Wiles, from the Committee on Finance, made the following report:

Indianapolis, Nov. 4, 1872.

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

Gentlemen:—Your Committee on Finance reports as follows: The referred petition of Joseph Greenwood, asking for the return of five dollars and thirty-five cents (\$5 35), for an erroneous assessment for street improvement on part of lots 2 and 3 in out-lot 99, has had our at ention. We find the statement correct, and recommend that the amount be refunded.

The referred petition of Henry Schnull, asking for the return of one hundred and seventy-two dollars and eleven cents (\$17211), for the alleged reason of continuous error in assessment on building located on lot 5, square 75, since the year 1868, is, or more properly was, in our opinion a matter for the Board of Equalization. We therefore recommend that the claim be not allowed.

We herewith present a demand from the County Clerk for various fee bills against the city, unpaid and due his office, amounting in the aggregate to the sum of three hundred and fifty-four dollars and fifty-five cents (\$35455); and as the same is accompanied by the proper voucher in each case, which we herewith file, we recommend that an ordinance be passed which shall provide for its payment, and that the City Clerk be instructed to see that the "Fee Book" in the above mentioned cases is properly credited upon the issuance of his warrant.

We also present the demand of the Clerk of the Supreme Court for the sum of eighteen dollars and seventy cents (18.70), fees in the case of City of Indianapolis against Bly. We recommend its payment as in the former case by the City Clerk.

We also recommend that hereafter the City Clerk be instructed, upon the issuance of his warrant for the payment of any moneys on outstanding notes against the City, which are secured by mortgage, to see that the books in the Recorder's office, as well as the notes and mortgages, be properly credited for same.

Your Committee desire to call the attention of Council to the growing disposition of a number to prosecute the city for real or fancied claims or dam

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ages; and notwithstanding the City Attorney has to the best of his ability defended the city's interest, yet the largely increased amount of business has simply rendered it a matter of impossibility for him to give the attention in each case that its importance required, and already a number of judgments have been rendered against the city, which are justly owed by other parties, but can only be recovered to the city by assuming the debt and bringing suit against the proper parties in turn, thereby increasing rather than lessening the duties of the City Attorney.

After careful examination of the entire subject, your Committee agree in recommending that Council appoint a "City Solicitor," whose duty shall be to aid the Council in advice, and defend, protect and further the City's interest in all cases now pending or hereafter brought into the Courts.

We further agree in recommending that the Committee on Judiciary be instructed to tender the position to the Hon. B. K. Elliott.

Respectfully submitted,

W. D. WILES,
THOMAS COTTRELL,
H. S. BIGHAM,
J. H. WOODBURN,
DAVID GIBSON,
Com. on Finance.

Which was concurred in, and, on motion, the accounts recommended for payment were ordered inserted in the general account ordinance now pending.

On motion by Mr. Gibson, the Judiciary Committee were instructed to employ Hon. B. K. Elliott as City Solicitor for the balance of the fiscal year ending May, 1873, at a salary of \$1,700.

By consent Mr. Wiles presented the following:

INDIANAPOLIS, Oct. 21, 1872.

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

I herein submit bills for gas apparatus amounting to (\$120) one hundred and twenty dollars. This is the remaining portion of the bill of apparatus ordered last February, and was received at my office only a few days ago.

E. T. COX, City Gas Inspector.

Which was received, and, on motion, said accounts were ordered inserted in the general account ordinance now pending.

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The ordinance was then read the second time and ordered engrossed.

Mr. Batty introduced special appropriation ordinance No. 63, 1872, entitled:

An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis on account of printing, stationery, &c., for the month of Oct., 1872.

Which was read the first and second times and ordered to be engrossed.

Dr. Woodburn introduced special appropriation ordinance No. 64, 1872, entitled:

An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis on account of City Hospital, for the month of Oct., 1872.

Which was read the first and second times and ordered to be engrossed.

Mr. Thalman introduced special appropriation ordinance No. 65, 1872, entitled:

An ordinance appropriating money for the payment of sundry claims against the city of Indianapolis, on account of the Station House for the month of Oct., 1872.

Which was read the first and second times and ordered to be engrossed.

Mr. Thalman introduced special appropriation ordinance No 66, 1872, entitled:

An ordinance appropriating money for the use of the Street Commissioner.

Which was read the first and second times and ordered to be engrossed.

ORDINANCES ON THIRD READING.

Special appropriation ordinance No. 62, 1872, entitled:

An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis for the month of October, 1872.

Was read the third time and passed by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Special appropriation ordinance No. 63, 1872, entitled:

An ordinance appropriating money for the payment of sundry claims on account of printing, stationery, &c., for the month of Oct., 1872.

Was read the third time and passed by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Special appropriation ordinance No. 64, 1872, entitled:

An ordinance appropriating money for the payment of sundry claims on account of the City Hospital for the month of Oct., 1872.

Was read the third time and passed by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodeburn—18.

Negative-None.

Special appropriation ordinance No. 65, 1872, entitled:

An Ordinance appropriating money for the payment of sundry claims on account of the Station House for the month of Oct., 1872.

Was read the third time and passed by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Special appropriation ordinance No. 66, 1872, entitled:

An ordinance appropriating money for the use of the Street Commissioner.

Was read the third time and passed by the following vote:

Affirmative—Councilmen Batty, Bigham, Bollman, Cottrell, Craft, Gibson, Gimber, Hardesty, Kahn, Kennington, Pressly, Reagan, Rush, Sherwood, Thalman, Whitsit, Wiles and Woodburn—18.

Negative-None.

Mr. Batty, from Special Committee, made the following report:

Indianapolis, No. 4, 1872.

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

GENTLEMEN:—The Select Committee, to whom was entrusted the duty of inquiring into the truth of certain charges made orally and otherwise against John Ross, City Sexton, report:

That we met on the 26th and 29th days of October, 1872, at the City Court Room, and examined all witnesses who appeared as such, under oath.

The evidence as to the intoxication of Ross, which was all sworn to as occurring on the 14th day of October, 1872, at the time of the Funeral of Mr. Webb's child (no single witness testified as to any other instance), was contradictory and unsatisfactory, but your Committee are of unanimous opinion that the charge of drunkenness was not fully sustained by the evidence.

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His character for industry, sobriety and the faithful discharge of his duties up to this period being fully proven by several good and and reliable witnesses.

But we do find Mr. Ross highly censurable for having and keeping for some time in his employ, at the Cemetery, a colored man, named Bill, who was in the habit of almost daily becoming intoxicated; this we deem highly improper, but as he has since discharged him, your Committee are of the opinion that such occurrences will not again happen. We therefore respectfully ask to be discharged from the further consideration of the subject.

JOHN H. BATTY,
DAVID GIBSON,
C. E. WHITSIT,
J. S. HARVEY, City Attorney.
Committee.

Which was concurred in.

His Honor, the Mayor, presented the following:

Indianapolis, Oct. 30, 1872.

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

Gentlemen:—It appears by the records of your honorable body that here-tofore, on the 21st day of October, 1872, a contract was awarded by your honorable body to R. M. Riner to build a brick sewer in the Central Canal, at the crossing of Maryland street, and fill in said Canal, by embankment, the full width of Maryland street.

I am advised that work has already been commenced, under said contract, and by the direction of the City Council.

As President of the Water Works Company of Indianapolis, and in behalf of said Company, I protest against the execution of said work, and the action of the City Council in ordering the same, as an invasion of the rights of said Company.

This protest is made that it may not be assumed that said Water Works Company waives any of its rights or acquiesces in said invasion, and that it may hereafter assert its rights at such times and in such manner as it may deem proper.

I ask, as a matter of justice to said Company, that this protest be made part of your record.

Very respectfully,

JOHN R. ELDER, President Water Works Co. of Indianapolis.

Which was received.

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Dr. Woodburn presented the following:

Recapitulation of Monthly Report of the Expenditures of the City Hospital, ending Oct. 30, 1872:

Which was received.

On motion the Council adjourned.

DANIEL MACAULEY, Mayor.

ATTEST:

JOHN R. CLINTON, City Clerk.