

Council Chamber, Oct. 21, 1901.
(Regular Session.)

Called to order by Pres. Haarer.

Roll Call: Present—Ald. Hamilton, Clancy, Brown, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—10. Absent—Ald. Richards, Schlenker, Koch, Kearns, Schumacher—5.
Enter Ald. Richards, Koch, Schlenker, Kearns.

Minutes of previous meeting read and approved.

PETITIONS AND COMMUNICATIONS.

Petition of Mr. P. J. Lehman et al for light on Jackson avenue and of Geo. Spathelf, jr., et al., for patrolman for the Fifth ward were received and referred to their proper committees.

To the Common Council:

Gentlemen—Your honorable body submitted to the City Attorney, for written opinion, the following question, viz.:

“When private property is taken for the purpose of an alley, under the charter and ordinances of the city, should the owners of the property be compensated, or the property be paid for, before the tax imposed for the benefits and expenses have been collected; or should the payment for the property be withheld until the tax has been collected and covered into the street opening fund?”

I have given the subject such consideration as I am able, and from my investigation I beg to submit the following considerations and conclusions:

First. By Section 127 of the charter it is provided that when the Common Council shall be applied to in writing by ten or more freeholders of the city, to lay out an alley, the Common Council shall first determine the improvement advisable.

Second. They shall then give ten days' notice of the pending of the question of ordering the proposed alley and of the time and place of the meeting of the Council to consider it.

Third. If, after the hearing of the persons interested, the Common Council shall determine to lay the alley, they shall proceed to obtain a release of the right of way, and the damages accruing, if any, from any and all persons injuriously affected by the proposed alley, by gift, compromise or purchase.

Fourth. If the Council shall be unable to agree with the persons inter-

ested, they shall so declare by resolution, and

Fifth. Thereupon the city may proceed under the general law of the state to acquire the right of way, and settle the question of damages by condemnation proceedings.

Manifestly it is the clear intention of this statute to acquire the right of way and pay for it before any other steps are taken in the matter.

By Section 128 of the Charter it is provided, among other things:

First. That when the damages or compensation shall have been paid or tendered to the person entitled thereto, or an order on the City Treasurer for the amount of such damages shall have been executed and delivered or tendered to such person, then,

Second. The Common Council may give notice to the owner or occupant of the land through or over which such alley has been laid out, not less than 30 days, to remove his fences.

It will be noticed that all this proceeding is authorized by the charter before any authority is given to levy and collect the tax, that is, the Council is authorized to pay damages before they are authorized to even spread the tax.

We are of the opinion that the charter contemplates that the lands taken for public improvement shall be paid for before any tax is levied, and certainly before it is collected.

And we therefore advise that an order for damages awarded to the respective owners ought to be drawn and tendered to them before they are required to pay the tax assessed against them or their property for the expenses provided for in the charter.

And we further advise that the Treasurer be authorized to draw a warrant for the amount found payable to each person respectively for the damages awarded to such person as shown by the verdict of the jury found recorded on page 26 of the Council proceedings for 1901, being the minutes of the meeting of March 18th, 1901, and tender the same to such persons respectively forthwith.

All of which is respectively submitted.
A. J. SAWYER,
City Attorney.

Received and ordered filed.

Office of the Board of Public Works.
To the Common Council:

Gentlemen—We submit to you our

annual report of all walks constructed by this board and charged to the property owners, as per your order.

WM. M'INTYRE,
Pres. of Board.

J. E. HARKINS,
Clerk.

Miss L. Koss, debtor to the City of Ann Arbor for constructing walk in front of No. 620 N. Fifth avenue, Lot 11, Block No. 3, of Ormsby & Page's addition, \$12.00.

Miss L. Koss, debtor to the City of Ann Arbor for constructing walk in front of her property on west side of Beakes street, Lot No. 18 of Block No. 3 of Ormsby & Page's addition, \$32.00.

John W. Bennett, debtor to the City of Ann Arbor for constructing walk in front of No. 210 S. Thayer street, part of Lot No. 15, Block 2 south, Range 10 east, \$24.48.

George Clarcken, debtor to the City of Ann Arbor for construction of walk in front of property on east side Detroit street, part of Lot 7, Block 4 north, Range 6 east, \$38.28.

Beta Theta Phi Fraternity (J. E. Beal, agent), debtor for construction of walk on south side Madison street along north side of property being situated in the north east corner of Block 6 south, Range 9 east, \$82.83.

William Merrithew, debtor to the City of Ann Arbor for construction of walk in front of No. 227 S. Ingalls street, Lot No. 5, Block No. 2 south, Range 12 east, \$36.30.

E. E. Beal, debtor to the City of Ann Arbor for construction of walk in front of 409 S. Division street, Lot No. 2, Block No. 4 south, Range 7 east, \$36.30.

Adam Meuth, debtor to the City of Ann Arbor for construction of walk in front of property on east side of Detroit street, parts of Lots No. 5 and 6, Block No. 4 north, Range 6 east, \$81.07.

Clark estate (J. Q. A. Sessions, agent), debtor, for construction of walk in front of No. 501 S. Division street; Lot No. 1, Block No. 5 south, Range 7 east, \$36.30.

X. Zachmann, debtor to the City of Ann Arbor for construction of walk on east side of Detroit street, parts of lots 14, 15 and 16 of Block 3 north. Range 5 east, \$88.77.

Estate of Wm. Burke (Herbert Burke, agent), debtor to the City of Ann Arbor for the construction of walk in front of No. 502 S. Division street, part

of Lot No. 6, Block No. 5 south, Range 6 east, \$70.70.

E. H. Waples, debtor to the City of Ann Arbor for construction of walk at corner of Washtenaw avenue and Church street, part of Lot No. 46, Smith's first addition, \$56.10.

Mrs. Loraine Mount (W.W. Whedon, agent), debtor for construction of walk in front of No. 631 S. Twelfth street, part of Lot No. 6, Block No. 6 south, Range 13 east, \$29.37.

Estate of George A. Hendricks (W. D. Harriman, administrator), debtor for construction of walk in front of Lot No. 17 of Block 5 south, Range 1 east, \$16.00.

E. H. Waples, debtor to the City of Ann Arbor for construction of walk in front of parts of lots No. 7 and 8, Block 4 north, Range 6 east, \$48.90.

Respectfully submitted,

WM. M'INTYRE, President
JAS. E. HARKINS, Clerk.

I, James E. Harkins, City Clerk of said city, do hereby certify that the annexed is a true and compared copy of all walks constructed by the city and charged to the property owners now on record in this office; that I have compared the same with the original record, and the same is a true transcript therefrom, and the whole of such original record.

In witness whereof, I have hereunto set my hand and affixed the seal of said City of Ann Arbor, this 21st day of October, A. D. 1901.

JAS. E. HARKINS,
City Clerk.

Enter Ald. Schumacher.

By Ald. Jenney:

Resolved, That this Common Council shall sit as a Board of Review to review the report and certificate of the Board of Public Works this day filed, said board to meet in the Council Chambers on Thursday, October 31, 1901, at 2 o'clock p. m.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

City Attorney Sawyer called the Council's attention to the fact that at the last meeting walks had been ordered from one point to another on various streets, and the names of the property owners were omitted, and that in his

opinion it was necessary to state the name of the property owners in said resolution, whereupon Ald. Coon moved the matter be referred to the sidewalk committee. Carried.

ORDINANCE.

Ald. Fischer presented "An Ordinance relative to telephones and granting power and authority to J. W. Martin and his assigns to own, construct and operate a telephone plant and system in its corporate limits of the City of Ann Arbor," which was given its first and second reading.

By Ald. Jenney:

Whereas, in the opinion of the Council the grade of the sidewalk on the north side of E. Huron street ought to be changed and fixed and established, to the end that such street may be suitable for public travel. Therefore.

Resolved, And it is hereby ordered that the grade of the sidewalk on and along the north side of East Huron street from the east line of Thirteenth street to the west line of Fourteenth street be, and the same is hereby changed, fixed and established, so that the grade of said sidewalk on and along the street aforesaid shall be as follows, that is to say:

At the northeast corner of Thirteenth street 862.40.

At 200 feet east of the northeast corner of Thirteenth street, 860.00.

At the northwest corner of Fourteenth street, 875.00.

The elevation given being above the official city datum and along the center line of such walk, and the grade lines to consist of straight lines between the several points or stations above stated.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

SIDEWALKS.

Ann Arbor, Mich., Oct. 21, 1901.

To the Common Council:

Your committee on sidewalks to whom was referred the matter of the sidewalk grade on E. Huron street, north side, from the east line of Thirteenth street to the west line of Fourteenth street, would respectfully recommend that the grade be adopted as contained in the resolution and that the sum of \$40 be appropriated for the pur-

pose of doing the necessary grading.

All of which is respectfully submitted.

ROYAL A. JENNEY,
JOHN BURG,
HENRY RICHARDS,
CHRIST. SCHLENKER,
Committee.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

By Ald. Jenney:

Resolved, That forty (\$40) dollars be and is hereby appropriated to do the necessary grading on E. Huron street, between Thirteenth and Fourteenth streets.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

Mr. Korzuck appeared before the Council relative to grade of street and sidewalk adjoining his property at the corner of Hiscock and Miner streets. The matter was referred to the Street and Sidewalk Committee.

POLICE.

By Ald. Schumacher:

Resolved, That the police force of this city be increased and that two more patrolmen be added to the regular force.

Ald. Clancy moved that the matter be laid on the table. Carried.

BONDS.

Ald. Brown presented the bond of A. C. Schumacher, druggist, with a favorable report of the bond committee, and moved that the same with M. J. Fritz and Titus F. Hutzel as sureties, be accepted. Carried.

City Attorney Sawyer stated that he had had the matter of the water running over the Hiscock property under consideration and would require more time, which was granted.

The matter of widening Division street and the suit of Mrs. Cheever against the city, was presented by Mr. Sawyer and on motion of Ald. Coon the City Attorney was directed to file an answer to the bill for the city; and that the City Attorney, City Engineer and City Clerk be directed to look up the records and ascertain whether that portion of South Division street was

platted a 4-rod street or not, and whether the city has done any street work on said street or not.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

By Ald. Coon:

Resolved, That the Board of Public Works be directed to build a brick crosswalk across Geddes avenue, opposite the cemetery; also across E. Liberty street on the east side of Fifth avenue, opposite Dr. Blair's, and that an appropriation of \$40 be made for the construction of each walk.

Adopted as follows:

Yeas — Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

By Ald. Coon:

Resolved, That the Clerk be directed to order a telephone placed in Mr. Groves' (city engineer) residence, also to have the city 'phone of Mr. Norris changed to Mr. Sawyer's office.

Adopted as follows:

Yeas — Ald. Richards, Hamilton, Schlenker, Koch, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—15. Nays—0.

On motion the Council adjourned.

JAS. E. HARKINS, Clerk.