

COUNCIL CHAMBER, }  
Ann Arbor, June 15th, 1896. }

Regular Session.

Called to order by Pres. Hiscock.

Roll called. Quorum present.

Absent, Ald. Cady, Danforth.

The journal of the session of June 1st was approved.

PETITIONS AND COMMUNICATIONS.

To the Common Council:

The Board of Public Works would recommend that your Honorable Body ordered an open paved gutter on William St. across Ashley St. to the Ann Arbor Railroad, so as to prevent storm water flooding the entrance of the A. A. R. R. depot. The Engineer has furnished the following estimate for doing the work :

16 rod of paving at \$2.25 per rod ..... \$36.00

Board of Public Works,

Glen V. Mills,

Clerk.

Ald. Coon moved that the Council concur in the recommendation of the Board of Public Works and the work ordered done.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

To the Common Council:

The Board of Public Works herewith refers the estimate of the Engineer, for the paving of the gutters on Miller Ave. from Ashley St. to First St. which is as follows:

500 cubic yards of gravel, at 30 cts. per yard..... \$150.00

36 rods of gutter paving, at \$2.25 per rod..... 81.00

2 box culverts, at \$30.00 each 60.00

Total estimate..... \$291.00

All of which was respectfully sub-

mitted with the recommendations that you approve of the same.

Board of Public Works.

Glen V. Mills,

Clerk.

Referred to Committee on Streets.

To the Common Council.

I submit resolution for establishing grade on Moore St., also resolution for establishing grade of sidewalk on northeast side of Moore St. Also submit estimate of cost of paving open gutters across Moore St. and Broadway, which is approximately.

15 rods paving at \$3.00 per rod, \$45.00

There ought to be a new crossing across Moore St. of brick 6ft. wide, also one across Broadway placed on the established grade so as to make a permanent disposal of the question of caring for the storm water coming down Moore St. across Broadway.

Geo. F. Key,

City Engineer.

Referred to the Sidewalk Committee.

To the Common Council.

I herewith submit profile and proposed grade for the south west side of Michigan Ave. from E. University to Wells St., also the proper resolution for establishing the same.

An estimate of the cost of doing the necessary grading in

450 cu. yd. at 20c per yd. \$90.00.

Geo. F. Key,

City Engineer.

Referred to the Sidewalk Committee.

A petition signed by C. J. Snyder and thirteen others asking for improvements on Gott St. was read and referred to the Street Committee.

A petition signed by J. F. Schuh and 17 others asking for a crosswalk on the north side of Washington across Fourth Avenue was read and referred to the Sidewalk Committee.

A petition signed by E. J. Granger and ten others asking for improve-

ments on Packard Street was read and referred to the Street Committee.

A petition signed by A. Hammond asking for the privilege of removing a tree in front of his residence was read and referred to the Street Committee.

A petition signed by John Conde and fifteen others asking for improvements on Ashley St. was read and referred to the Street and Side-walk committees.

REPORTS OF STANDING COMMITTEES.  
FINANCE.

To the Common Council.

*Resolved*, That the salaries of the City officers be fixed for the ensuing year as follows:

City Engineer.....	\$1200.00	per year
City Assessor.....	1000.00	"
City Clerk.....	1000.00	"
City Attorney.....	600.00	"
Street Commissioner..	800.00	"
City Marshal.....	65.00	per mo.
Patrolman.....	50.00	"
City Treasurer.....	100.00	per year
City Physician.....	100.00	"
Health Officer.....	150.00	"
Inspector of Board of Health.....	100.00	"
Remaining member of the Board of Health	50.00	"

Be it further resolved, that in case of a meeting of the Common Council or any committee thereof during the time that the Office of the City Clerk should be open for the transaction of business, that he be required to keep a deputy in the office without expense to the City of Ann Arbor. And further, that he be required to furnish at his own expense a typewriter operator to do the work required by any official in his official capacity, without expense to the City of Ann Arbor.

The City Attorney agrees to attend to all the legal business of the City in consideration of the above salary.

C. H. Cady,  
Emmett Coon,  
Harrison Soule,  
Committee on Finance.

Ald. Dell moved as an amendment that the salaries be placed at the same amount as last year.

The amendment was lost as follows:  
Yeas—Ald. Dell—1.

Nays—Ald. Maynard, Moore, Koch Grossman, Laubengayer, Burke, Brown Shadford, Rhodes, Coon, Soule, Pres. Hiscock—12.

Whereupon the report of the Committee on Finance was adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

SEWERS.

To the Common Council:

Defects in the operation of the sewer system have come to the notice of your Committee on Sewers. Your Committee have therefore made a general inspection of the lateral sewers of the City and have found an unexpected and deplorable state of affairs to exist.

*First.* Your Committee found that no person or persons, were responsible for the condition of the flushtanks or manholes or defects in any part or portion of the sewer system.

*Second.* Your Committee found that the Board of Public Works on January 8th, 1896 by resolution of that body, had taken this matter from the control of the City Engineer, and made arrangements for a monthly inspection of the flushtanks and a report on the same, and directed a man then employed by the City to make such inspection, in company with a member of the Ann Arbor Water Co. No such report was made until May 29th and this was made by Daniel J. Ross.

Mr. A. Kent Hale, Receiver of the Ann Arbor Water Co., has stated to your Committee that none of their officials have received at any time a notification of an inspection as required by the above resolution.

*Third.* Your Committee found that only on a small portion of the manholes and flushtanks were placed the necessary dirt-pans.

*Fourth.* Your Committee found that none of the flushtanks were operating according to the resolution of the Board above referred to, which required a flow of water sufficient to fill the same in four days, but instead, some were discharging from three to six times in 24 hours, while others were not operating at all.

The inspection and inquiry on the part of your Committee has led us to believe that there has been more than criminal negligence on the part of certain incompetent employees of the Board of Public Wores, designated by them to perform the work provided for in the resolution of January 8th, 1896.

Your Committee is of the opinion, and so recommend to this Council, that some capable, competent and responsible person be placed in control of the sewer system, and that he should be held responsible by this Council for the regular workings of the system. Your Committee would therefore recommend that the matter be placed in the hands of the Engineering Department, as requested by the Board of Public Works, and that they be instructed to employ a suitable person as assistant Engineer; he to be given entire control, under the direction of the Engineer. of the whole sewer system in the City of Ann Arbor now constructed, and to hereafter be constructed including all connections thereto, and that he be held responsible for its working. And further your Committee would recommend that the person so employed be required to give a bond to the City of Ann Arbor for the faithful performance of the duties of his office.

Respectfully submitted,

John Koch,  
Emmett Coon,  
W. M. Shadford,  
H. J. Burke,  
J. A. Dell.  
Geo. L. Moore,

Committee on Sewers.

Adopted as follows.

Yeas—Ald. Moore, Koch Grossman, Laubengayer, Shadford, Coon, Soule, Pres. Hiscock—8.

Nays—Ald. Maynard, Dell, Burke, Brown, Rhodes,—5.

STREETS.

To the Common Council:

Your Committee on Streets to whom was referred the petition asking for the removal of the trees on Beakes St. in front of the property of A. P. Fergerson, would recommend that the Street Commissioner be directed to remove them immediately.

Respectfully submitted,

Geo. L. Moore,  
M. Grossman,  
Jesse A. Dell,  
H. J. Burke,  
W. M. Shadford,  
Harrison Soule,  
Committee on Streets.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch Grossman, Laubengayer, Dell, Burke Brown, Shadford, Rhodes, Coon, Pres. Hiscock—13.

Nays—None.

To the Common Council:

Your Committee on Streets have caused to be prepared and herewith submit a proper resolution changing fixing and establishing the street grades on North Division St. between Kingsley and Detroit. Also Moore between Broadway and Traver.

Respectfully submitted,

Geo. L. Moore,  
W. M. Shadford,  
Wm. Grossman,  
Harrison Soule,  
C. H. Cady,  
J. A. Dell,  
H. J. Burke,  
Committee on Streets.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

STREET GRADE RESOLUTION.

By Ald. Moore.

WHEREAS, in the opinion of the

Council the grade on N. Division-st. ought to be changed and fixed and established, to the end that such street may be made suitable for public travel and traffic. Therefore

*Resolved*, and it is hereby ordered that the grade on N. Division-st. from north line of Kingsley-st to the north east line of Detroit-st. be, and the same is hereby changed from the present grade and fixed and established, so that the grade on and along such street shall be as follows, that is to say:

- At north line of Kingsley-st. ....832.50 ft.
- At 250 ft. north of center line of Kingsley-st.....825.00 ft.
- At north-east line of Detroit-st. ....810.10 ft.

the elevation given being above the official city datum and along the center line of said street, and the grade lines to consist of straight lines between the several points or stations above stated, the roadway to conform thereto.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

By Ald. Moore.

WHEREAS, in the opinion of the Council the grade on Moore-st. ought to be changed and fixed and established, to the end that such street may be made suitable for public travel and traffic. Therefore

*Resolved*, and it is hereby ordered that the grade on Moore-st. from north-west line of Broadway-st. to the center line of Traver be, and the same is hereby changed from the present grade and fixed and established, so that the grade on and along such street shall be as follows, that is to say:

- At the north-west line of Broadway-st. ....776.50 ft.
- At the center line of Traver-st. ....782.00 ft.

the elevation given being above the of-

ficial city datum and along the center line of said street, and the grade lines to consist of straight lines between the several points or stations above stated, the roadway to conform thereto.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

To the Common Council.

Your committee on Streets would recommend that the Street Commissioner be directed to level the street on the sidewalk line on the north side of South University-Ave., between Linden and Oxford, and relay the walk which he tore up during the grading of such street. And further your Committee would recommend that the Street Commissioner be directed to take the road grader and grade South University Ave., between Washtenaw Ave. and Oxford, so as to place the same in a passable condition. And further your Committee would recommend that the Board of Public Works be directed to take the necessary steps to lower the lamp-hole to grade on South University Ave. near Linden.

Respectfully submitted,

- Geo. L. Moore,
- M. Grossmann,
- J. A. Dell,
- H. J. Burke,
- W. M. Shadford,
- Harrison Soule,

Committee on Streets

Ald. Moore moved to amend the report so as to include the finishing of the grading on S. University Ave. and Walnut-st.

Adopted.

Whereupon the report of the Committee as amended was

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13

Nays—None.

SIDEWALKS.

To the Common Council:

Your Committee on sidewalks would report that they consider it a necessary public improvement that sidewalks be graded, constructed and repaired along the following streets, and in front of the following property; vis. Your Committee have had prepared and herewith submit the following resolution ordering the same and recommend its adoption.

Respectfully submitted,  
 Emmett Coon,  
 Arthur Brown,  
 G. C. Rhodes,  
 Jacob Laubengayer,  
 John Koch,  
 C. A. Maynard,

Committee on Sidewalks.

Leave being granted the following resolutions was presented.

By Ald Coon.

*Resolved*, That the grading and construction of sidewalks here-in-after mentioned is deemed and declared a necessary public improvement. It is therefore ordered that a stone or cement sidewalk be graded, built and constructed on the west side of S. State st., in front of 14 S. State, the property of Mrs. Mary E. Hill. And further resolved, that a plank or tar sidewalk be ordered constructed and graded on the south-east side of Pontiac-st., in front of 24, the property Norman Gates. And further be it resolved that the cement sidewalk on the north-east side of Miller Ave., from the property of the Ann Arbor Railroad, west along the property of Anton Eisele Est. be relaid and repaired.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

SIDEWALK GRADE RESOLUTION.

By Ald. Coon.

WHEREAS, in the opinion of the

Council the grade of the sidewalk on the south-west side of Michigan Ave. 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 south-west side of Michigan Ave. from south-east line of E. University Ave. to the south-west line of Wells-st. 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 south-east corner of E. Univ. Ave. and Mich. Ave....837.50 ft.  
 At 176 ft. easterly from south-east corner of E. Univ. Ave. and Mich. Ave.....840.00 ft.  
 At 406 ft. easterly from south-east corner of E. Univ. Ave. and Mich. Ave.....842.50 ft.  
 At the south-west corner of Wells-st.....845.00 ft,  
 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. Maynard, Moore, Koch, Grosman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

By Ald. Coon.

WHEREAS, in the opinion of the Council the grade of the sidewalk on the north-east side of Moore-st. 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 along the north-east side of Moore-st. from north-west line of Broadway-st. to the south-east line of Traver-st. 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 north-west corner of

Broadway and Moore-sts.....777.00 ft.

At the north-east corner of

Traver and Moore-sts.....784.00 ft.

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.

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

To the Common Council:

Your Committee on Sidewalks would recommend that a plank crosswalk be ordered built on the south side of Hill across Packard-st. And further your Committee would recommend that the matter of a walk along the property of the Ann Arbor Milling Co. on the north-west side of Broadway be referred to the Board of Public Works for investigation; also that the grading for the walk along the property of Mrs. Lukins on the east side of Church st., from Hill-st. north to the walk already laid in front of the houses near Williard-st., be referred to the Board of Public Works for an estimate.

Respectfully submitted,

Emmett Coon,  
G. C. Rhodes,  
Arthur Brown,  
Jacob Laubengayer,  
C. A. Maynard,  
John Koch,

Committee on Sidewalks

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

FIRE DEPARTMENT.

To the Common Council.

Your Committee on Fire Department to whom was referred the communication of the Board of Fire Commissioners, asking for the appropriation of \$300.00 for the purchase of an additional

team for the Department, would recommend that such an appropriation be made, and that the Board of Fire Commissioners be permitted to, if they deem advisable, to sell the roan horse name Bill now used by the department. And further your Committee would recommend that the Board of Fire Commissioners be instructed to purchase the necessary buttons and caps for the uniforms of the members of the Department, and also a bath-tub at the cost not to exceed \$80.

Respectfully submitted,

W. M. Shadford,  
M. Grossman,  
G. C. Rhodes.

Committee on Fire Department.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hiscock—13.

Nays—None.

LIGHTING.

To the Common Council.

Your Committee on Lighting to whom was referred a petition asking for an electric light at the corner of Washington and 14th streets, would report that after examining said location, they are of the opinion and would recommend to this Council that the prayer of the petitioners be granted, and that a light be ordered at said location, the same to be placed upon a poll 60 feet in height. And further your Committee would report that in the case of a petition for a light at the corner of Hiscock and Brooks streets, that in their opinion the petition should be denied as there is a sufficient amount of light at said location; the light on Miller Avenue and Summitt street corners being only three short blocks apart in a locality in which there are few houses.

Respectfully submitted,

Harrison Soule,  
Committee on Lighting.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke,

Brown, Shadford, Rhodes, Coon, Soule,  
Pres. Hiscock—13.

Nays—None.

**BONDS.**

To the Common Council:

Your Committee on Bonds would report that they have had the following Bonds under consideration and would recommend their approval by this Council with the sureties here after specified.

**STREET COMMISSIONER.**

Principals. Sureties.

Dainel J. Ross, David Rinsey,  
Moses Seabolt.

**PLUMBERS.**

Principals. Sureties.

Hutzel & Co. Michael J. Fritz.  
Christian Martin,  
Kenny & Quinlan, Gottlob Luick,  
Add Collum.

**LIQUOR DEALERS.**

Principal. Sureties.

Jacob Dupper. Lewis Kurtz,  
Fred Brown.

Respectfully submitted,  
Arthur Brown,  
Michael Grossmann,  
Geo. L. Moore,  
Committee on Bonds.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch,  
Grossman, Laubengayer, Dell, Burke,  
Brown, Shadford, Rhodes, Coon, Soule,  
Pres. Hiscock—13.

Nays—None.

**REPORTS OF CITY OFFICERS.**

MONTH ENDING MAY 31, 1896.

**CITY TREASURER'S REPORT.**

To the Common Council of the City of  
Ann Arbor:

Balance on hand, last report..... \$14860 90

**MONEY RECEIVED.**

Contingent fund		
Glen V Mills license.....	1 00	
Transfer from Soldiers Relief fund.....	853 88	
Tra from Poor fund.....	700 00	
Tra from Water fund.....	700 00	
Tra from B C and C fund	1000 00	
M C Peterson fees.....	6 40	
A E Gibson fees.....	60 00	
Glen V Mills dog fund.....	3 00	
Firemen fund.....	2 00	3326 28
<b>Total.....</b>		<b>\$ 18187 18</b>

**MONEY DISBURSED.**

Contingent fund Warrants.	\$1145 21	
Street fund warrants.....	814 99	
Poor fund.....	1072 20	
Bridge, Culvert and Cross-walk fund.....	1001 62	
Police fund.....	218 50	
Firemen's fund.....	513 75	
City Cemetery fund.....	39 95	
Soldiers' Relief fund Transfer.....	853 88	
Water fund Transfer.....	700 00	11827 08
<b>Total.....</b>		<b>\$18894 93</b>

**BALANCE ON HAND**

Contingent fund.....	\$1027 93	
Main Sewer Bond fund....	100 00	
Street fund.....	414 93	
Poor fund.....	318 81	
Bridge, Culvert, and Cross-walk fund.....	870 30	
Police fund.....	1346 02	
Firemen's fund.....	1568 67	
City Cemetery fund.....	97 91	
Water fund.....	1812 40	
Dog Tax fund.....	182 00	
University Hospital Aid Bond fund.....	840 00	
Delinquent tax fund.....		1251 89
Uncollected City Building site fund..	4500 00	
	13078 97	
	1251 89	
<b>Total.....</b>		<b>\$11827 08</b>

Respectfully submitted,

C. H. Manly,  
Treasurer.

MONTH ENDING MAY 31, 1896.

To the Common Council of the City of  
Ann Arbor:

**SEWER REPORT.**

Balance on hand in sewer account last report..... \$7054 61

**MONEY RECEIVED.**

May 30. Main sewer, Tap license.....	\$ 34 50	
May 30. Tax ac't lateral sewer Dist. No. 1.....	7 19	
May 30. Tax ac't lateral sewer Dist. No. 3.....	74 93	116 62
May 31 Total amount of sewer money.....		\$7171 23

**MONEY DISBURSED.**

May 31.

Main sewer warrants paid..	\$ 6 00	
Labor ac't later sewer Dist. No. 1 warrants paid.....	2 10	
Labor ac't later sewer Dist. No. 3 warrants paid.....	85 80	
Labor ac't lateral sewer Dist. No. 2, warrants paid	8 48	
Labor ac't lateral sewer Dist. No. 5 warrants paid	1 00	
	103 38	103 38
<b>Total amount of sewer tax on hand.....</b>		<b>\$7067 85</b>

BALANCE ON HAND.		
May 31.		
Main sewer.....	\$ 10897 99	
Labor ac't lateral sewer Dist. No. 1.....		8 37
Labor ac't lateral sewer Dist. No. 2.....	27 28	
Labor ac't lateral sewer Dist. No. 3.....		3987 78
Labor ac't lateral sewer Dist. No. 5.....	24 80	
Labor ac't lateral sewer Dist. No. 4.....		252 73
Labor ac't lateral sewer Dist. No. 6.....	3 95	
Tax ac't lateral sewer Dist. No. 1.....	483 43	
Tax account lateral sewer Dist. No. 2.....	805 75	
Tax account lateral sewer Dist. No. 3.....		1195 02
Tax account lateral sewer Dist. No. 4.....	362 75	
Uncollected Sewer Tax....		94 20
	12605 95	5538 10
	5538 10	
Total Balance on hand...	\$7067 85	

Respectfully submitted,

C. H. Manly,

Treasurer

Dated this 31st day of May, 1896.

To the Common Council.

Gentlemen:—I have examined the matter of the statement of the Foundry Water Pond referred by you to me and find that there are three ways by which the same may be abated, viz:

*First.* By condemnation proceedings.

*Second.* By filing and Information against the owners for creating and maintaining a nuisance injurious to the Public Health.

*Third.* By filing a Bill in Chancery to abate it as a nuisance either by the city or by the residents and property owners in the vicinity of the alleged nuisance, setting up the fact that the pond is a nuisance, and specially and greatly injurious to them in property, comfort and health.

The first remedy suggested, namely condemnation proceedings, is the most difficult and expensive as the question would have to be submitted to a jury that would have to find the pond to be a nuisance and any dama-

ges they might find would be awarded to the owners.

The second remedy suggested, namely the filing of a information, on a criminal proceeding. The jury would have to find the defendants guilty beyond a reasonable doubt. If they were convicted they could be sentenced to pay a fine or be imprisoned, and the court could make a further order abating the nuisance which the jury would have to find it to be before they could convict the defendants.

The third remedy suggested namely, filing a bill in chancery, is the most simple, safe and sure course to pursue. It is said by our Supreme Court to be the proper one.

I would therefore recommend that the Council pass a resolution directing the city attorney to file a bill in chancery to abate as a nuisance the said Foundry Water Pond.

Respectfully submitted,

Thos. D. Kearney,

City Attorney.

To the Common Council.

Gentlemen:—I have examined the question of lowering the sewer on Washtenaw Ave. and the fund from which the cost of the same may be paid and herewith submit the following report.

To lower said sewer is to repair it, and as the ordinance is silent on the subject of repairs, you can only pay the cost of the same out of the general sewer fund or the contingent fund. If that district fund was exhausted you surely could not make an additional assessment for that purpose.

I have been asked the effect of the city lowering the sewer before a settlement was made with the contractor.

The lowering of the sewer, if the council should decide to do, would have no more effect on the settlement with the contractor than would the



cleaning of it if it should get clogged up. Any rights the city has against the contractor cannot be affected by the proposed repairs.

Respectfully submitted,  
Thos. D. Kearney,  
City Attorney.

To the Common Council.

Gentlemen—I have examined into the matter of the power of the city to pave or macadamize streets by its board of public works and street commissioner and submit the following report.

Section 137 of the charter requires that "whenever the council shall have decided upon the making of any public improvement it shall so declare by resolution and shall refer the matter to the board of public works." The board of public works "shall determine as to the particular kind of materials to be used therefor, and estimate in detail the quantity of materials and cause to be prepared plans and specifications for such work or improvement, and report the determination and estimate to the common council. When such plans and specifications have been submitted to the common council, and approved by it, the said board of public works shall, except in the case of cleaning ditches etc., advertise for the proposals for furnishing of materials and for the performance of such work."

The power of the council to build pavements etc., is conferred by this section of the charter and it is plain to be seen that such work can be done only by contract.

In an examination of the cases on this subject I have found that the charters of many cities contain a provision similar to our own. The Supreme Court of our own state, as well the courts as of other states, that have passed upon the question, holds that this work must be let by contract. They hold that the purpose of this provision in the charter is to secure competition among contractors for public works and sup-

plies, and to give the public the benefit thereof.

You cannot do this work and make a valid assessment for benefits. The collection of such an assessment could not be enforced.

I have no doubt that the council has power to perform the work now proposed as an experiment.

If you should decide to macadamize certain streets and pay the cost of the same out of the contingent fund, or street fund, and your power and authority to furnish the materials and do the work was not questioned by some taxpayer by injunction or otherwise, and the work was completed, the action of the council could not be questioned.

Our main sewer was laid in this manner without complaint from anyone. There are certain jobs that the city can do as cheap and cheaper than any contractor that might bid on them, and our own laboring men would have the benefit of the work. It is an easy matter for contractors to form a combine when bidding on public work, and the city has no power save to reject the bids. If the improvement is a necessary one they can only readvertise to be met with the same condition of affairs.

I believe that the council should have power to authorize, with proper restrictions, the board of public works to make any public improvement without asking for bids, when certain contingencies arise, and would therefore recommend that the next legislature be requested to so amend our charter as to include such a provision.

Respectfully submitted,  
Thos. D. Kearney,  
City Attorney.

To the Common Council.

I have been asked by certain members of this Council for my opinion of the authority of the Council to carry into effect a resolution passed at the last meeting ordering the Trustees of Forest Hill Cemetery to construct a walk

along Geddes Avenue and in front of the cemetery.

The law is well settled that the exemption in the general tax law from taxation of churches, hospitals, cemeteries, etc., the exemption applies only to the taxes mentioned in the general tax law, and not to those of a private character, such as assessment for sewers, sidewalks and pavements.

There can be no doubt about the power of the Council to order the cemetery board to build said sidewalk. And in making the assessment for the construction of the sewers the cemetery might have been included.

Respectfully submitted,

Thos. D. Kearney,

City Attorney.

Ald. Koch moved that the report of the Sewer Committee of May 18th be taken from the table.

Adopted.

Ald. Koch moved that the report be adopted.

Adopted as follows:

Yeas—Ald. Maynard, Moore, Koch, Grossman, Laubengayer, Dell, Burke, Brown, Shadford, Rhodes, Coon, Soule, Pres. Hsscock—13.

Nays—None.

#### RESOLUTIONS.

By Ald. Moore.

Whereas the Foundry Water Pond on west Washington street is a public nuisance which creates an intolerable stench that permates the entire neighborhood in its vicinity thereby causing nausea, debility and discomfort, and compelling the people to shut their doors and windows to avoid it, therefore,

*Resolved*, That the City Attorney be and is hereby directed and instructed to file a bill in chancery to abate the same.

Adopted.

On motion the Council adjourned.

GLEN V. MILLS,

City Clerk.