

Council Chamber, Nov. 25, 1901.

Special session.

Called to order by Pres. Haarer.

Roll call: Present—Ald. Richards, Hamilton, Schlenker, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—14. Absent—Ald. Koch—1.

THE CALL.

Mayor's Office, Ann Arbor, Mich.

Jas. E. Harkins, City Clerk:

Dear Sir—Please issue the usual notice and call for a special meeting of the common council of the city of Ann Arbor to be held at the council chamber this evening at 7:30 o'clock, for the purpose of:

I. To receive the report of the committee on grade separation and to take action thereon.

II. To take action upon the Boland franchise.

III. To provide for the issuing of bonds to cover the cost of sewer construction in lateral sewer district No. ten.

IV. And for the purpose of directing orders to be issued in payment of the damages awarded to the various property owners, in the matter of the opening of the alley between Liberty and William streets.

Dated at Ann Arbor this 25th day of November, 1901.

R. S. COPELAND, Mayor.

COMMUNICATIONS.

Communications from Dean & Co., Michigan Milling Co. and the Ann Arbor Fruit & Vinegar Co. in regard to the raising of the Ann Arbor railroad company's tracks were received and ordered placed on file.

Mayor Copeland then presented the report of the committee on grade separation as follows:

Your committee on grade separation begs leave to report as follows:

It is the sense of this committee that it is possible to consummate the plan for the separation of the grades of the Ann Arbor railroad at Miller avenue, Huron, Washington and Liberty streets.

To contribute to this end the Hawks-Angus road has agreed to pay \$30,000. Provided all parties agree to the separation, it is our opinion this offer should be accepted.

The Boland road has agreed to pay \$10,000 toward the separation. That company is asking for a modification of its franchise. We favor any reasonable changes, but recommend that they be made contingent upon the contribution to the grade separation fund. We believe this provision should be made an essential part of the ordinance itself.

As soon as the required deposits are made we recommend that action be taken to secure permission from the Railroad Commissioner for the electric roads to cross at grade.

As to the shape in which these pledges shall be left, we recommend as follows: Within ten days after the adoption of this report by the common council, each electric railroad shall deposit with Mr. W. J. Booth as trustee a certified check or such other obligation as shall be satisfactory to the Ann Arbor railroad.

We further recommend that the Ann Arbor railroad company be requested to immediately file with the officials of the city a full statement of its intentions in the grade separation matter and to enter into a contract to complete the work.

It is also recommended that First street, at its intersection with the Ann Arbor railroad, be diverted to the west and made to run parallel to the railroad and to join Liberty street at a point just west of such tracks. In order to accomplish this legally we recommend that at the proper time action be taken by the common council to provide for the opening of the new portion of First street, permitting the Ann Arbor railroad to continue its embankment along the right of way and across the present line of First street.

We recommend, lastly, that the city clerk serve a copy of this resolution upon all interested parties.

By Ald. Brown:

Resolved, that the report of Mayor Copeland, acting as chairman of the grade separation committee, be adopted, provided, however, that the city shall not assume any liabilities for damages to abutting property.

Ald. Schlenker moved to amend the report by inserting after the words "First street" in the seventh article the following: "And to indemnify the abutting property owners, the damages to be awarded by a special arbitration committee." Lost.

Ald. Brown's motion to adopt the report then being in order it was adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—14. Nays—0.

Ald. Fischer moved that the Boland ordinance be passed to and given its third reading. Carried.

Ald. Fischer then introduced:

AN ORDINANCE

To amend Section I., II., XVIII., XXV., XXVIII. and XXVI of an ordinance entitled, "An ordinance granting to William A. Boland, his successors or assigns, permission and authority to construct, maintain, own and operate an electric street railway in the city of Ann Arbor," granted May 27th, 1901.

The City Council of the city of Ann Arbor ordains:

Section 1. That section 1 of an ordinance granting William A. Boland, his successors or assigns, permission and authority to construct, maintain, own and operate an electric street railway in the City of Ann Arbor, granted May 27th, 1901, be, and it is hereby amended to read as follows:

That permission and authority are hereby given and granted to William A. Boland of the Village of Grass Lake, Michigan, and to his associates and assigns, to construct, maintain and operate street railways in, through and upon the streets, avenues and bridges of the City of Ann Arbor, with all necessary turnouts, single tracks and side tracks, such turnouts and side

tracks, as to length and location, to be under the direction of the Common Council of the City of Ann Arbor, and to operate an electric street railway with first-class equipment along the following route, to-wit:

Commencing at a point on the west corporation line of the City of Ann Arbor, near the northwest corner of Section 29, of the Township of Ann Arbor; thence southeasterly along a private right of way to a point on Seventh Street near the west branch of Mill Creek; thence across Seventh Street at grade; thence southeasterly along a private right of way to a point on Chapin Street near the south side of said Mill Creek; thence across Chapin Street on a bridge or trestle, giving a clear headway of at least eleven feet above the present roadway; thence easterly along a private right of way, or along Ann Street from its western extremity, to the corner of First and Ann Streets, crossing the tracks of the Ann Arbor Railway on a bridge or trestle; thence easterly on Ann Street to Fourth Avenue, crossing the tracks of the Detroit, Ypsilanti & Ann Arbor Railway at Main Street; also from the corner of Ann and Main Streets, crossing the track of the Detroit, Ypsilanti & Ann Arbor Railway at a curve and along the easterly side of Main Street, southerly and parallel with the existing track to Huron Street; thence easterly along Huron Street to Fourth Avenue; thence northerly along Fourth Avenue to Beakes Street, crossing the tracks of the Detroit, Ypsilanti & Ann Arbor Railway at Catherine Street; thence easterly on Beakes Street to Broadway, crossing the Michigan Central Railroad on an iron bridge, to be constructed by said grantee for his own use and benefit, to be located immediately southeasterly of the overhead bridge now crossing the Michigan Central Railway tracks, and of the same style of construction, and widening the approach to said overhead bridge on the easterly side thereof, and from bridge to bridge, and over the Huron River on a suitable bridge for that purpose, to be constructed immediately southeasterly of the highway bridge now constructed thereat, thence with a northerly turn to the center of Broadway, crossing the steam railway switch track at that point, and thence northeasterly on

Broadway to a point on Travers Creek at its intersection with Broadway, thence turning to the north on the west side of Travers Creek, thence on private right of way north-easterly, and along the east side of the Ann Arbor Railway, crossing Mill Creek at its intersection with said Ann Arbor Railway, thence continuing on private right of way along said Ann Arbor Railway to the east city limits of the City of Ann Arbor.

Provided, however, That in case the City of Ann Arbor shall, within sixty days after the passage of this ordinance, agree with the Ann Arbor Railroad company, and any other parties interested, for the elevation of the tracks of said Ann Arbor Railroad, so as to provide for the passage of the cars of grantee, his successors or assigns, underneath the tracks of said railroad and shall serve notice in writing upon said grantee, his successors or assigns, to that effect, then said grantee, his successors or assigns, shall, within thirty days, file with the City Recorder a suitable bond, to be approved by the Common Council, conditioned to pay his or their proportion of the cost of raising the tracks of said railroad, upon the basis of a total cost of eighty thousand (\$80,000) dollars, said proportion of such cost not to exceed ten thousand (\$10,000) dollars. Upon failure to provide such bond as herein provided, this ordinance, together with the rights and privileges granted hereby, shall, at the option of the council, become null and void.

In the event that the tracks are so raised, the grade of the tracks of the grantee hereunder shall not be depressed below the present grade of the Ann Arbor tracks at the point of crossing. A clear space of fourteen (14) feet above the tracks of said grantee shall be provided for, and also a width of thirty (30) feet;

Provided further, That some satisfactory means of passing of cars of grantee, his successors or assigns, into and out of the city toward the west shall be arranged with the Ann Arbor Railroad Company and the Commissioner of railroads, pending the raising of said tracks.

In event of the elevation of the tracks of the Ann Arbor Railroad and the construction of an undercrossing

or temporary grade crossing by the grantee herein, the said grantee shall have the privilege of crossing Chapin Street at grade.

Ald. Fischer moved to amend section 1 by striking out the rest of section 1 beginning with "Provided, however," and inserting the following:

Provided, however, that in case any positive and definite arrangement, contract or agreement shall be reduced to writing, signed and executed between the Ann Arbor Railroad and the Detroit, Ypsilanti, Ann Arbor and Jackson Railroad, constituting and appointing Royal S. Copeland trustee for all the parties in interest in said contract, and making the said Royal S. Copeland custodian of said contract and charged with the execution and fulfillment thereof, and which contract shall be entered into, signed, sealed and delivered to said trustee within sixty days after the passage of this ordinance, and shall provide for the elevation of the Ann Arbor Railroad tracks so as to provide for the passage of the cars of the grantee herein, his successors and assigns, underneath tracks of the said Ann Arbor Railroad, and said trustee shall serve written notice thereof upon said grantee, his successors or assigns, within sixty-five days from the date of the passage hereof, together with a copy of the contract so signed by the parties aforesaid, then said grantee herein, his successors or assigns, shall and will within thirty days thereafter file with the said trustee a certified check to be approved by said trustee conditioned for the payment of ten thousand dollars to said trustee for the use of the said Ann Arbor Railroad towards the cost of raising the tracks of the said Ann Arbor Railroad; and upon the failure to file such check as hereinbefore provided for, this ordinance, together with the rights and privileges granted hereby, shall, at the option of the Common Council of the City of Ann Arbor, become null and void.

And provided further, that in the event that the tracks are so raised the grade of the tracks of the grantee

hereunder shall not be depressed below the present grade of the Ann Arbor Railroad tracks at the point of crossing under said elevated tracks; and a clear space of fifteen feet above the tracks of said grantee shall be provided for and also a width of fifteen feet for the passage of the cars of the grantee, his successors or assigns, under said tracks of said Ann Arbor Railroad.

And provided further, that some satisfactory means of passing of the cars of said grantee, his successors or assigns, into and out of the city towards the west shall be arranged with the Ann Arbor Railroad and the Railroad Commissioner pending and the Railroad Commissioner pending the raising of said tracks; and provided further, that said tracks shall be raised on or before the first day of July next.

And provided further, that in the event of the elevation of said tracks of the said Ann Arbor Railroad and the construction of an undercrossing, the temporary grade crossing by the grantee herein, the said grantee shall have the privilege of crossing Chapin street at a grade.

And provided further, that said Detroit, Ypsilanti, Ann Arbor and Jackson Railway shall deposit with the same trustee a certified check similar in form with and to be approved by the same trustee conditioned for the payment towards the raising of said tracks the sum of thirty thousand dollars. That both of said checks shall be made payable upon the completion of the elevation of said tracks.

Carried.

Sec. II. That section 2 of said ordinance shall be, and it is hereby so amended as to allow of the use of "Tee" rail, to weigh not less than seventy pounds per yard, instead of "Tram" rail, except on that portion of the route of said street railway within the city where the city streets are paved.

By Ald. Hamilton:

Resolved, that section 2 be stricken

out both in the body of the ordinance and also in the title. Carried.

Sec. III. That section XVIII. of said ordinance shall be, and it is hereby, amended so as to read:

Said grantee, his successors or assigns, shall operate over the line of railway herein provided for, at least eighteen (18) cars in each direction daily; of these, at least nine (9) cars in each direction shall stop at all street crossings on signal and at least nine (9) cars in each direction may be required only to stop at a convenient centrally located waiting-room, being intended for fast through service between Detroit, via Plymouth, and Battle Creek.

All the cars shall be of modern kind, and embracing the usual modern improvements for convenience, comfort and safety, including a well constructed closet, said closet to be locked while the car is passing through the city; and said cars shall be neatly and comfortably furnished, and provided with all necessary signals, and modern appliances for the operation of said cars, and shall be kept in first-class condition.

Sec. IV. That section XXV. of said ordinance shall be, and it is hereby, so amended as to read as follows:

Cars to be used on such railway shall be run at a rate of speed not to exceed twelve (12) miles per hour between the crossing with Chapin Street and the junction of Traver's Creek and Broadway; outside of these limits, the speed may be at the rate of twenty miles per hour, within the limits of said City.

By Ald. Richards:

Resolved, that "Seventh street" be inserted in section IV. in place of "Chapin street." Carried.

Sec. V. That section XXVI. of said ordinance shall be, and it is hereby, amended to read as follows:

This ordinance is granted upon the express condition that said grantee, his successors or assigns, shall complete said construction, and operate a direct through main line of electric railway from the City of Ann Arbor through the Villages of Dexter, Chelsea and Grass Lake to Jackson, within six months after the passage of this ordinance, and upon failure so to do, this ordinance shall, at the option of said

Common Council, be null and void, and all rights granted hereunder forfeited and terminated; provided, that before any work shall be done under this franchise in that portion of the City of Ann Arbor east of the junction of First and Ann Streets, said grantee or his assigns shall have fully constructed at least five (5) miles of said railway westwardly from said junction of First and Ann Streets, toward Dexter.

By Ald. Jenney:

Resolved, that "at the option of said common council" be struck out. Lost.

Sec. VI. That section XXVIII. of this ordinance shall be, and it is hereby, amended so as to read as follows:

Said grantee and his assigns shall make no greater charge than five cents for one continuous ride upon said railway from any point in the City to any point in the City limits, and shall also sell six tickets for twenty-five cents, one of which tickets shall entitle any person to one continuous ride from and to any part of the City, on or over said street railway, and each and every person so paying such fare or delivering any such ticket shall, on application, be entitled to have and receive from said grantee, his successors or assigns, a transfer ticket to the Detroit, Ypsilanti & Ann Arbor Railway, or any other street railway constructed in the City of Ann Arbor, which on presentation to said Detroit, Ypsilanti & Ann Arbor Railway, or any other street railway constructed in the City of Ann Arbor, within one hour from the time of issuance, shall entitle any such passenger to one continuous ride over the said Detroit, Ypsilanti & Ann Arbor Railway, or any other street railway, to any part of the City; provided, that said Detroit, Ypsilanti & Ann Arbor Railway or any other street railway shall accept, upon the reciprocal terms herein provided, such transfers, and the said grantee, his successors or assigns shall receive and accept in payment for single fares and continuous rides over the street railway constructed under this franchise, within the corporate limits of the City, like transfer tickets issued and delivered by the Detroit, Ypsilanti & Ann Arbor Railway, its successors or assigns, or any other street railway, and the said grantee shall make and maintain provision for

the issue of such transfer tickets by the Detroit, Ypsilanti & Ann Arbor Railway, its successors or assigns, or other street railway; provided, that said Detroit, Ypsilanti & Ann Arbor Railway, its successors or assigns, or other street railway, shall accept, under like reciprocal terms, the transfers issued by the railway constructed hereunder.

There shall be no discrimination in rates of fare charged that shall in any way be detrimental to the interests of Ann Arbor. And no greater charge than one and one-half cents per mile from any point in the city to any point outside the City, or from any point outside the City to any point inside the City; provided, however, no fare less than five cents shall be received.

Children under five years of age shall be carried free when accompanied by parent or guardian.

Ald. Jenney moved to strike out section VI. of this ordinance both in the title and body of the ordinance. Carried.

Ald. Fischer moved to amend the amendment to section I. so as to have it read as follows:

Provided, however, that in case any positive and definite arrangement, contract or agreement shall be reduced to writing, signed and executed between the Ann Arbor Railroad and Royal S. Copeland, trustee for all the parties in interest in said contract, and making the said Royal S. Copeland custodian of said contract and charged with the execution and fulfillment thereof, and which contract shall be entered into, signed, sealed and delivered to said trustee within sixty days after the passage of this ordinance and shall provide for the elevation of the Ann Arbor Railroad tracks so as to provide for the passage of the cars of the grantee herein, his successors or assigns, underneath the tracks of the said Ann Arbor Railroad, and said trustee shall serve written notice thereof upon said grantee, his successors and assigns, within sixty-five days from the date of the passage hereof, together with a copy of the contract so signed by the parties aforesaid, then said grantee, his successors or assigns,

shall pay toward the elevation of said tracks ten thousand dollars. Said grantee, his successors or assigns, as an evidence of good faith shall within ten days after the acceptance of this franchise file with the said trustee a certified check for ten thousand dollars payable to said trustee for the use of the said Ann Arbor Railroad towards the cost of raising the tracks of the said Ann Arbor Railroad; and upon the failure to file such check as hereinbefore provided for, this ordinance, together with the rights and privileges granted hereby, shall, at the option of the Common Council of the City of Ann Arbor, become null and void.

And provided further, that in the event that the tracks are so raised the grade of the tracks of the grantee hereunder shall not be depressed below the present grade of the Ann Arbor Railroad tracks at the point of crossing under said elevated tracks; and a clear space of fifteen feet above the tracks of said grantee shall be provided for and also a width of fifteen feet for the passage of the cars of the grantee, his successors or assigns, under said tracks of said Ann Arbor Railroad.

And provided further, that some satisfactory means of passing of the cars of said grantee, his successors or assigns, into and out of the City toward the west shall be arranged with the Ann Arbor Railroad and the Railroad Commissioner pending the raising of said tracks; and provided further, that said tracks shall be raised on or before the first day of July next.

And provided further, that in the event of the elevation of the tracks of the said Ann Arbor Railroad and the construction of an under-crossing, the temporary grade crossing by the grantee herein, the said grantee shall have the privilege of crossing Chapin street at a grade.

And provided further, that said Detroit, Ypsilanti, Ann Arbor and Jackson Railway shall deposit within the same time a certified check similar in form with and to be approved by the

same trustee conditioned for the payment towards the raising of said tracks the sum of thirty thousand dollars. That both of said checks shall be made payable upon the completion of the elevation of said tracks.

Carried.

Ald. Coon moved that action on the ordinance be deferred until next Monday.

Lost as follows:

Yeas—Ald. Richards, Weeks, Coon—3. Nays—Ald. Hamilton, Schlenker, Kearns, Clancy, Brown, Schumacher, Roberts, Jenney, Fischer, Burg, Pres. Haarer—11.

Ald. Brown moved that the following be added to section I.

Resolved, and it is provided further, that in case any other electric railroad coming into the City of Ann Arbor shall want to use the tracks of said grantee around the Court House square for the operation of any other electric railroad, said city shall have the right to grant said electric railroad so entering the city the right to use said track around the said Court House square upon the payment of current and trackage to the said grantee or his assigns.

Carried.

Pres. Haarer then put the question, "Shall this ordinance pass?"

Adopted as follows:

Yeas—Ald. Hamilton, Schlenker, Kearns, Clancy, Brown, Schumacher, Roberts, Jenney, Fischer, Burg, Pres. Haarer—11. Nays—Ald. Richards, Weeks, Coon—3.

By Ald. Hamilton:

Resolved, and it is hereby ordered, that warrants for the damages awarded to the property owners for the opening of the alley between William and Liberty streets be drawn, payable February 1st, 1902; said warrants to be received as cash in payment of the special assessment due for such alley opening and to be drawn upon the alley opening fund.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Kearns, Clancy, Schumacher, Weeks, Roberts, Jenney, Coon,

Fischer, Burg, Pres. Haarer—13. Nays
—Ald. Brown—1.

By Ald. Schumacher:

Whereas, the common council having ordered the construction of a lateral sewer in sewer district No. Ten, and the city engineer having reported the probable cost thereof to the common council, therefore be it

Resolved, and it is hereby ordered that the mayor and city clerk be authorized and required to execute under their hands and the seal of the city lateral sewer bonds of the city of Ann Arbor under date of December 1, 1901, in the aggregate sum of \$1,500.00, being the estimated cost of said improvement, payable to bearer in four

equal installments from and after the first day of March, A. D. 1902, at the office of the city treasurer, with interest at four per cent per annum payable annually on the first day of March in each and every year. The principal to be payable at the option of the city treasurer pursuant to law.

Adopted as follows:

Yeas—Ald. Richards, Hamilton, Schlenker, Kearns, Clancy, Brown, Schumacher, Weeks, Roberts, Jenney, Coon, Fischer, Burg, Pres. Haarer—14.
Nays—0.

On motion the council adjourned.

JAS. E. HARKINS, Clerk.

Per G. O. CLARK, Deputy.