

Council Chamber,

Ann Arbor, Mich., Feb. 13, 1905.

Adjourned Regular Session.

Meeting called to order by Pres. Walz.

Present—Ald. Gill, Douglas, Hutzel, Schienker, Schumacher, Bangs, Sherk, Goodyear, Coon, Robinson, Pres. Walz.

Absent—Ald. Miller, Kearns, Markey, Fischer—4.

Unfinished Business.

RESOLUTIONS.

By Ald. Gill—

Resolved, by the Common Council of the City of Ann Arbor, that the time wherein the treasurer of the City of Ann Arbor should make his return to the county treasurer of the County of Washtenaw for the taxes assessed for the year 1904 be and the same is hereby extended to and until the twentieth day of February, A. D. 1905.

Adopted as follows:

Yeas—Ald. Gill, Douglas, Hutzel, Schlenker, Schumacher, Bangs, Sherk, Goodyear, Coon, Robinson, Pres. Walz.—11.

Nays—None.

Enter Ald. Kearns and Markey.

By Ald. Coon—

Resolved that the sum of three hundred dollars be and the same is hereby transferred from the Bridge, Culvert and Crosswalk fund to the Sidewalk fund and the sum of three hundred dollars be and the same is hereby transferred from the Contingent fund to the Park fund.

Adopted as follows:

Yeas—Ald. Gill, Douglas, Hutzel, Schlenker, Kearns, Schumacher, Markey, Bangs, Sherk, Goodyear, Coon, Robinson, Pres. Walz.—13.

Nays—None.

Adjourned to court room.

Petition of Martin L. D'Ooge et al To the Honorable the Common Council of the City of Ann Arbor:

For many years a great deal of dissatisfaction with the condition of the water supply of this city has been manifest. There have been complaints of exorbitant rates charged

by the Water Company; of its unreasonable, harsh and arbitrary regulations as to the use of water; of the unwholesome, or even deleterious, quality of the water furnished; of the insufficient pressure for fire and domestic purposes; of the inability of the company to apply direct pressure when emergency demanded such pressure.

These matters are generally considered to have been regulated by a contract between the City and the Company, which, it has been understood, imposed upon the Company certain reasonable duties in these particulars for the welfare and protection both of the City and its property and the inhabitants and their property.

In a communication made by the President of the Water Company, under authority of its Board of Directors, to your honorable body at its meeting last Monday, the view taken by the Company seems to be that there is no duty legally resting upon it to meet reasonable requirements in the particulars mentioned. Whether or not there is such an obligation imposed upon the Company depends upon the true legal meaning of the contract and also upon the correctness of various statements concerning the manner in which the Company has performed, or failed to perform, its contract and statutory duties.

It is the judgment of almost all citizens that something should be done to insure to the City a proper water supply, adequate under all circumstances and at reasonable cost. But what can be done or ought to be done are matters upon which there is a diversity of opinion. Many citizens have felt so outraged as to demand that your honorable body take steps toward the immediate construction of waterworks by the City itself; another body of citizens urge that you refuse to pay the bills rendered to the City by the Company for the last six months, and thereby raise the legal questions involved in an action to be brought by the Com-

pany; others have asked that the Council shall revoke the contract with the Company or take proper legal steps to have it canceled; still others advocate the purchase of the plant of the Company as it now exists.

Inasmuch as action must come through your honorable body, and in view of this diversity of opinion, and the substantially unanimous desire of the citizens of the City that existing conditions shall be remedied in the best way, we have, on behalf of many citizens, appeared here to suggest that the following persons, namely: Henry S. Dean, Cyrenus G. Darling, Gottlob Luick, Israel C. Russell, B. Frank Ohlinger, Horace L. Wilgus and Joseph B. Davis, and those members of this Council who hold over after the coming elections, be constituted a Joint Committee, authorized and directed to investigate fully all the phases of the situation--legal, economical, mechanical or sanitary. We further suggest that this committee shall have authority to call for evidence and the production of papers and documents; shall have power to employ disinterested experts and counsel, and pay them; shall sit with open or closed doors as they may see fit; shall hear all who may wish to be heard, so far as in their discretion may seem necessary or desirable; and shall report, in such detail as they shall deem advisable, to your honorable body, with recommendations as to what action should in their judgment be taken by you to secure the ends desired. Meanwhile we request your honorable body to decline to pay the bills rendered to the City by the Ann Arbor Water Company for past services.

Dated February 13th, 1905.

Received and ordered on file and following resolution offered:

By Ald. Goodyear:

Whereas, For a long period of time there has been much dissatisfaction existing in this city in regard to the water supply thereof; and

Whereas, Complaints have been made that the Ann Arbor Water Co. have charged excessive rates, made arbitrary regulations, furnished unwholesome water, at insufficient pressure; and

Whereas, Differences have arisen between the city and the Water Co. as to the rights of the city, and the duty of the Water Co., arising under its contract with the city; and

Whereas, Petitions have been filed with this body, suggesting various remedies and urging the adoption of various lines of action; and

Whereas, It is admitted by the counsel of the Water Co. that the city may recoup itself for any damages suffered by it by failure of the Water Co. to comply with its contract, by deducting the amount thereof from any sums alleged to be due the Water Co., for services heretofore rendered; and

Whereas, It is understood that the city attorney and some of the members of this council are interested in the Water Co.; and

Whereas, It seems best for all concerned to have the whole subject fully investigated and reported on with recommendations, by a special committee, composed of persons as nearly disinterested as possible;

Therefore, Be it resolved by the Common Council of the City of Ann Arbor, as follows:

1. That a joint committee, composed of seven members of this council who hold over after the next election, and the following persons, citizens of the city, Henry S. Dean, Cyrenus G. Darling, Gottlob Luick, Israel C. Russell, B. Frank Ohlinger, Horace L. Wilgus, and Joseph B. Davis, be appointed to investigate fully the whole situation relative to the water supply of the city, and at such time as is possible to report to this body with recommendations.

2. That such joint committee be specially directed to enquire into and report upon, with recommendations,

(1). The legal rights of the city and the inhabitants thereof, and the

legal duties of the Water Co. under its contract with the city, with the best methods of protecting the former and enforcing the latter;

(2). Whether or not, and if so to what extent and in what particulars, the Company has heretofore violated, or is now violating, its duties to the city or its inhabitants;

(3). The present, and all available, sources of supply of water to the city, together with the geological, sanitary, and other qualities and conditions connected therewith;

(4). The power and authority of the city to construct water works of its own, and the best method of proceeding therein;

(5). The probable cost of constructing new and up-to-date works adequate to the satisfactory present and future supply of the city and its inhabitants, and for adequate fire protection;

(6). The probable expense of operating the same;

(7). The probable rates at which water could then be furnished to the city and its inhabitants;

(8). The fair and reasonable value of the plant of the present Water Co.;

(9). The probable cost of making it adequate to the present and future needs of the city and its inhabitants;

(10). What would be reasonable rates to be charged by such company, should the works be so perfected;

(11). The price at which such works could be purchased;

(12). Such other matters relative to the supply of the city and the inhabitants with water as to such committee shall seem necessary or desirable.

3. That said committee shall have authority to ask any justice of the peace, and the request of the council to comply therewith is hereby made, to issue subpoenas or process of warrant to compel the attendance of persons and the production of books and papers before said committee, and said committee may compel witnesses to testify, and the chairman

thereof may administer the necessary oaths.

4. That the payment of all bills alleged to be due to the Water Co., by the city, be deferred until report by said committee as to the rights of the city therein be made to this body, and further action taken thereon.

5. That this body deems the view taken by the president of the Water Co., and communicated, by the authority of the board of directors thereof, to this body at its last meeting, to be virtual repudiation of the duties of such company under its contract with the city, and as notice to the city of an intention to abandon the full performance of such continuing duties by said company, and the city is thereby released from all further obligations to such company thereunder.

6. That during the investigation above ordered, the supply of water by the company, and the acceptance thereof by the city, shall in no way affect the right of the city to claim it has been released from the provisions of the contract heretofore existing by the action of said company, or to annul and cancel the same, and to revoke all the alleged exclusive rights claimed thereunder by such company, if the facts when fully ascertained shall, in the judgment of this council justify such action.

7. That said committee may hold their meetings with open or closed doors as to them shall be deemed best, but they shall keep a complete record of their proceedings, and a copy thereof shall be deposited with the city clerk along with the report and recommendations of the committee, when their work is completed.

8. That a copy of these resolutions be given to said Water Co., and that it shall be given such opportunity to be heard before the committee hereby appointed as it shall choose to accept.

Remarks, petitions and communications relative to above resolution follow.

Petition of R. L. Warren et al.

Petition to the City Council,

To the Honorable, the Mayor and Common Council of the City of Ann Arbor:

We the undersigned citizens and taxpayers and water consumers of the city would respectfully petition your honorable body, in view of the frequent and continued failure on the Ann Arbor Water Company to fulfill its contract obligations, to proceed at the earliest possible moment to take such legal steps as are necessary to terminate the contract with said company, and that the Council reject the payment of any and all bills claimed to be due the Company until the whole subject has been thoroughly investigated and the rights of the city and the people are established.

The people of the city commend the position your honorable body has thus far taken and urge that you insist on the protection of the people's rights to the limit of your power.

Received and ordered on file.

Communication from Geo. W. Bullis et al.

Whereas, The Ann Arbor Water Company by its violation of its contract with this city has caused the taxpayers a loss of over \$100,000.00 in the recent destruction of the High School building; and

Whereas, The unreasonable charges made by the Water Company to the consumer of water is nearly twice as high as in the cities of the size of Ann Arbor where the water plant is owned by these cities; and

Whereas, This city seems to be at the mercy of this monopoly, owing to the fact that many of the prominent monied men, as well as office holders, of Ann Arbor own stock and bonds in this corporation, and owing further to the fact that many of the lawyers of this city have an interest in this Water Company, either by way of retainer or otherwise;

Now, Therefore, We the undersigned business men and taxpayers

of Ann Arbor, pledge ourselves as follows:

First. That we will use every effort in our power to have this city build an independent water plant, since the buying of the present worn out and inefficient plant of the Water Company at an exorbitant and unconscionable price is out of the question.

Second. We favor legal action to compel the Ann Arbor Water Company to pay the loss sustained by this school district in the burning of the High School building, and which loss—in our judgment—was mainly due to the ineffective supply by the Water Company, and which said supply did not come up to the contract by the Water Company with the city.

Third. We favor, at an early day, of a calling of a mass meeting of the citizen's of this city, for the expression of sentiment upon these subjects, and the protection of the people against the wrongs perpetrated by this corporation.

Fourth. We favor the employment of competent legal talent to commence action against the Water Company for its violation of its contract and the recovery of loss sustained by the city on account thereof, and if the lawyers of Ann Arbor are interested in favor of the Water Company by reason of a retainer or otherwise, we favor the employment of a competent lawyer from the outside of the city.

Ald. Coon moved communication be laid on the table. Yea and nay vote called for, which resulted as follows:

Lost as follows:

Yeas—Ald. Douglas, Hutzel, Coon—3.

Nays—Ald. Gill, Schlenker, Kearns, Schumacher, Markey, Bangs, Sherk, Goodyear, Robinson, Pres. Walz—10.

Enter Ald. Miller and Fischer.

Ald. Douglas moved that resolution offered by Ald. Goodyear be laid on the table until next regular meeting.

Lost as follows:

Yeas—Ald. Gill, Douglas, Schlenker,

Miller, Coon, Fischer, Pres. Walz—7.

Nays—Ald. Kearns, Schumacher, Markey, Bangs, Sherk, Goodyear, Robinson—7.

Ald. Fischer moved that Dr. R. S. Copeland be added to committee suggested in resolution. Adopted.

Vote was then taken on adoption of resolution with following result:
Lost as follows:

Yeas—Ald. Kearns, Schumacher, Markey, Bangs, Sherk, Goodyear, Robinson—7.

Nays—Ald. Gill, Douglas, Schlenker, Miller, Coon, Fischer, Pres. Walz—7.

On motion the Council adjourned.

ROSS GRANGER, Clerk.