

Council Chamber, Ann Arbor, Mich.,  
Sept. 11th, 1911. Special Session.

Meeting called to order by Pres. Mills. Present: Pres. Mills, Ald. Schmid, Murray, Sweet, Koernke, Pipp, Flynn, Sherk, Manwaring, Ramsay, Lutz, Lindenschmitt, 12. Absent: Ald. Hochrein, Goodyear, 2.

#### Mayor's Call.

Ann Arbor, Mich., Sept. 9th, 1911.

Mr. Ross Granger, City Clerk: You will please call a special meeting of the common council for Monday evening, Sept. 11th, 1911, 7:30 o'clock, to receive reports from City Attorney, City Clerk, Ordinance committee and Street committee, and to take such action on same as is deemed best.

William L. Walz, Mayor.

Received and filed.

#### Ordinance Committee.

Ald. Manwaring presented an ordinance entitled, "An Ordinance Relative to Garbage," which was given its third reading as follows:

An Ordinance Relative to Garbage, to Regulate the Collection and Disposal Thereof, and to Prohibit Hogs and Hog-pens within the Limits of the City of Ann Arbor.

The Common Council of the City of Ann Arbor Ordain:

Section 1. That from and after the passage of this ordinance, it shall be unlawful for any person or persons to keep in, on or about the premises owned or occupied by them, any garbage or decaying vegetable matter whatever, or any swill from the house, or any substance which may be injurious to the public health, unless the same is kept in a close covered can, as required by the provisions of this ordinance.

Section 2. It shall hereafter be unlawful for any person or persons to carry, cart or convey along or through the public streets of the city, any garbage or decaying vegetable matter whatever, or any swill from any house or building in said city, or any substance commonly known as garbage, unless said person is authorized by the Board of Health and unless the same is carried, carted or conveyed in close covered cans, as provided in this ordinance.

Section 3. For the purpose of this ordinance, the word "Garbage" shall be held to include every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking, dealing in or storing of meats, fish, fowl, birds, fruit or vegetables; it shall also be

held to include kitchen and table refuse of every kind, excepting dish water, or waste water; or liquids of any kind which in freezing would destroy the garbage cans, and excepting any poisonous medicines or glass. If any material should be put in garbage cans other than as specified under the head of garbage, the collector will refuse to take the contents, and the same must be disposed of by the householder without delay. Refuse means all rubbish and refuse incident to the ordinary conduct of the household, including ashes, bottles, broken bottles, glass, tinware, crockery, cans and other broken utensils.

Section 4. No garbage shall hereafter be burned on any street, alley, common or public place within the limits of said property, nor shall any person place garbage upon any private property, whether owned by such person or not, unless the same shall be enclosed in proper cans as provided in this ordinance.

Section 5. It shall be unlawful for any person or persons to throw or deposit, or cause to be thrown or deposited, any garbage or refuse upon any private property, street, alley, gutter, sidewalk, or public grounds in said city, or in or along Huron river, or any of the creeks within the corporate limits of the city of Ann Arbor.

Section 6. It shall be unlawful for any person or persons to throw or deposit, or cause to be thrown or deposited, the contents of any out-house, privy or vault, upon any private property within the limits of the city, nor shall the contents of any out-house, privy or vault be buried within the limits of the city, without the written consent of the Board of Health.

Section 7. It shall be the duty of every tenant, lessee, or occupant of any dwelling house, boarding house, hotel, restaurant, and place of business of any kind having garbage to be disposed of to provide and at all times to keep within such building, or on the lot on which such building is situated, suitable and sufficient vessel or vessels having a capacity not exceeding twenty gallons, with baits and handles, and with close fitting covers thereto, for receiving and holding, without leakage or odors, all the garbage that may accumulate between the times of the collection thereof, as the same shall be fixed by the common council. Such vessels shall be filled only to within four inches of the top, and shall be placed

in such places as shall be readily accessible at all times for purpose of removing or emptying the same (upon the line of an alley whenever possible or convenient), and where said vessels shall not be a public nuisance in any respect, or be placed in the limits of any street or alley.

Section 8. It shall be the duty of each tenant, occupant or lessee, having garbage to dispose of, to place in such vessels all garbage accumulating on his or her said premises, between such times of removal thereof as may be established by the common council, and nothing but garbage, as defined in this ordinance, shall be placed in such vessels.

Section 9. The board of health shall be the exclusive judge of the sufficiency of vessels and receptacles for garbage provided for by this ordinance.

Section 10. All garbage deposited in said vessels and receptacles shall be removed at the expense of the city of Ann Arbor, at such regular intervals as may from time to time be established. Garbage shall be collected at least twice each week.

Section 11. The board of health shall have the power to establish such rules and regulations, not inconsistent with this ordinance, governing the collection and disposal of garbage, as may appear necessary for the preservation of the public health and safety. Such rules and regulations, when made and published, shall become and are hereby made part of this ordinance, and anyone violating such rules and regulations shall be amenable as in this ordinance ordained.

Section 12. Said city of Ann Arbor may contract for the removal and disposal of said garbage, and in doing so may divide the city into districts, if it appears expedient or desirable to do so, and may enter into separate contracts for each district. The letting of such contract, or contracts, may be referred to the City Clerk, and in such case it shall be the duty of said City Clerk to advertise for bids for collecting and disposing of said garbage, for such length of time and under such conditions as shall be prescribed by the common council, and in accordance with this ordinance and such rules and regulations as may be adopted by the Board of Public Health. Said City Clerk shall contract therefor, with the lowest responsible bidder, or bidders, who shall enter into such bond or bonds for the faithful performance of

said contract as shall be prescribed by the common council. Provided, That the term of such contract shall not in any case exceed three years.

Section 13. It is hereby made the duty of the contractor, or contractors, with the City of Ann Arbor for the collection and removal of garbage, to collect and remove in accordance with the contract with the city all such garbage found within the city limits. Such contractor, or contractors, shall transport and remove said garbage to places outside and at least one-fourth mile beyond the city limits. The kind of conveyance to be used in transporting said garbage may be specifically provided for by contract as the common council shall direct, but shall be such at least as will be suitable for the purpose and to securely convey garbage so that no portion thereof shall be spilled out, or dropped or thrown upon any street or alley or adjacent premises within the city, or anywhere within one-fourth mile of the city limits; nor shall the same be kept or stored upon any street or alley or public place except as in this ordinance provided; wagons or other conveyances used by contractors shall not be left in any street, alley or public place, or upon any private premises within the city, longer than may be reasonably necessary in order to collect and remove the garbage; any such contractor may dispose of the garbage collected as feed for hogs, but only to hogs that are kept at least one-fourth mile from the city limits.

Section 14. No other person or party except the city contractor or contractors, shall carry, convey or transport through the streets, alleys or public places of the city of Ann Arbor any garbage as herein defined, except by the permission of the Board of Health. PROVIDED, That in no case shall garbage be carried in any other kind of wagon than stated in this ordinance or for any less distance than as provided in this ordinance; and it shall be unlawful for any person to interfere in any manner with the collection and disposal of such material by the city contractor, or contractors.

Section 15. The keeping of hogs or maintenance of hog-pens within the city limits is hereby declared to be a public nuisance, and the same shall be and hereby are absolutely prohibited within the limits of said city. All persons who shall hereafter keep hogs, or maintain hog-pens within the limits of said city, shall be

amenable to the penalty provided for violation of this ordinance, as herein-after set forth.

Section 16. Any person guilty of any of the acts forbidden by this ordinance, or throwing poisonous substances or broken glass into garbage, or failing to perform any of the duties imposed herein, or who shall violate any of the provisions of this ordinance, or the rules of the board of health in reference to the same, shall, upon conviction, be fined in such sum as the court may determine, not exceeding one hundred dollars; and in case of default in the payment of such fine the court may make a further sentence that the offender be imprisoned in the county jail of Washtenaw county, or any jail or lockup of said city, until such fine and costs be paid; PROVIDED, Such imprisonment shall not exceed thirty days. And it is hereby declared to be the duty of the board of health and police department, through their proper officials and agents, to enforce the provisions of this ordinance.

Section 17. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall take effect and be in force on and after ten days from legal publication.

The chair put the question, "Shall this ordinance pass?" Passed by following vote: Yeas, Ald. Pipp, Flynn, Sweet, Ramsay, Murray, Lutz, Schmid, Lindenschmitt, Pres. Mills, 9. Nays, Ald. Sherk, Koernke, Manwaring, 3.

#### City Clerk's Report.

City Clerk presented bids for collection and disposal of garbage as follows:

To the Hon. Mayor, President and members of the Common Council of the City of Ann Arbor: The undersigned hereby submits the following bid for taking care of the city's garbage, in accordance with the notice of the letting of bids for same, as follows:

1st. The garbage to be collected in the same manner as it is being gathered now, and placed in galvanized tanks, same to be kept as clean as possible, for the sum of three thousand three hundred and 00-100 dollars (\$3,300.00) per year.

2nd. Garbage to be gathered from the individual owners' garbage can, in the same manner as it is being gathered at the present time. Garbage to be placed in galvanized iron cans, holding not less than twenty-

five nor more than thirty gallons. Cans to be stationary on platform wagon when drawn out of the city. Contractor to furnish cans to be used on the wagons, and to keep same as clean as possible, for the sum of four thousand two hundred and 00-100 dollars (\$4,200.00) per year. All garbage to be collected twice a week.

Edward Besch.

Dated September 11, 1911.

Ann Arbor, Sept. 11, 1911.

I will haul all garbage according to the terms of your resolution and advertisement, and in accordance with the proposed ordinance, for one year, as follows:

For one year, beginning Sept. 15, 1911, using 25-gallon galvanized iron cans, \$3,060.00, or by using tanks as at present \$3,060.00, or I will carry it away under either system from month to month, at the discretion of the council, at the rate of \$255.00 per month.

J. W. Markey.

Moved by Ald. Pipp, That Mr. Markey be awarded the contract, for one year.

Adopted as follows: Yeas, Ald. Pipp, Flynn, Sherk, Koernke, Manwaring, Sweet, Ramsay, Murray, Lutz, Schmid, Lindenschmitt, Pres. Mills, 12. Nays, none.

Moved by Ald. Schmid: That the garbage be collected in 25-gallon galvanized iron cans, and complying with the ordinance governing the same.

Adopted as follows: Yeas, Ald. Pipp, Flynn, Sherk, Koernke, Manwaring, Sweet, Ramsay, Murray, Lutz, Schmid, Lindenschmitt, Pres. Mills, 12. Nays, none.

#### City Attorney's Report.

To the Honorable, the Common Council of the City of Ann Arbor: Gentlemen—The communication of the Detroit, Jackson and Chicago Street Railway Co. refusing to pave outside its rails on Packard st., which communication was referred to me at your last meeting, has been duly considered, and I therefore make the following report: At a regular meeting of the common council, July 3, 1911, your Honorable Body granted the Detroit, Jackson and Chicago Railway Co., two side tracks on Packard st., upon the condition that the Railway company pave its tracks between the rails and

18 inches outside the rails. The Railway company put in the side tracks as designated by the council, and is paving its tracks between the rails, but refuses to pave outside the rails. The Railway company takes the position that under its franchise, or contract, with the city, entered into in 1888, there is no provision requiring the Railway company to pave any part of the street or streets occupied by its tracks, except on West Huron st., from Main st. to the city limits. West Huron st. being governed by a later franchise, and provided for paving within the rails and 18 inches outside the rails. In other words, the Railway company says it is not obliged to pave any part of the street unless its contract or franchise says so, and as the franchise under which they are running on Main and Packard sts. does not require it to pave, it is under no legal obligation to pave either between the rails or outside the rails. It also states that it is paving between the rails, not because it is legally obliged to do so, but as a mere voluntary act and gift to the city.

It is true that the franchise governing Main and Packard sts. does not contain an express provision requiring the Street Railway Co. to pave. There is, however, an express provision reserving to the common council the right and power to make all reasonable rules and regulations for the protection and benefit of the public.

I take the view that it is a reasonable regulation that the Street Railway Co. pave its portion of the street whenever the property holders pave theirs. Otherwise we would have the sides of the street paved

and the middle portion unpaved, or in such condition as the Railway company saw fit to leave it. I believe it is a reasonable regulation that the company pave between the rails and 18 inches outside the rails. The Railway company occupies this much space, and further, it has practically exclusive control of it, as all must clear the way for it. I believe the city should enforce this paving regulation against the company by such means as may be appropriate, when the proper time comes. However, the principal thing now is to get Packard and South Main sts. paved and opened for public travel, and not have those streets torn up all winter; and as the Railway company has refused to pave outside the rails, I therefore recommend that the Board of Public Works and City Engineer proceed at once and pave the 12 inches next the rails with brick, and the remaining six inches with cement; that the cost and expense be filed with the city clerk, and on receiving the same the city clerk charge the amount to the Detroit, Jackson and Chicago Railway Co., and make demand upon said company for immediate payment.

Respectfully submitted, J. W. Dwyer,  
City Attorney.

Sept. 11, 1911.

Moved by Ald. Manwaring: That the report and recommendations of the City Attorney be adopted.

Adopted as follows: Yeas, Ald. Pipp, Flynn, Sherk, Koernke, Manwaring, Sweet, Ramsay, Murray, Lutz, Schmid, Lindenschmitt, Pres. Mills, 12, nays, none.

The council adjourned.

ROSS GRANGER, Clerk.