

Monday May 6th 1912

The Council met in regular session with President Hull in the chair.

The roll being called the following members answered to their names. Messrs. Barnard, Farmer, Gubb, Lower, Voss, Yanny,
Present, 6 Absent, 1

The minutes of the previous meeting was read and approved.

The following petition was presented to council.

March 25th 1912

To the City Council of Alliance, O
Gentlemen

We, the following named property owners on Miller Ave, respectfully petition your honorable body for the paving of the above named avenue.

- J. Miller
- J. C. Miller
- J. Y. Baker
- O. D. Drew
- J. Shoup
- John Truse
- J. Blod
- Rollie G. Oswalt
- Emma Oswalt
- Just H. Praulughan
- B. F. Bailey
- Ms. Cathin Gimes
- Ch. M. Kenzie

On motion of Yanny, seconded by Barnard the petition was referred to the com. Street - Alley to be attached to petition.

The following petition was presented to council.
Alliance, O. May 6th 1912

To the City Council of Alliance, O.
Gentlemen

We represent the property owners adjacent to the water course running North from Rosenbergs Street to Cambridge between Union Avenue and the G. O. A. W. R. R. and hereby protest against the adition of further drainage into this course as is now contemplated through the drainage of William pond.

There has already been diverted into the channel a large area South Eastward from Grant Street, formerly going elsewhere, until every rain of a any consequence causes the water to overflow on our property and causing heavy damage to us.

Your records will show one or more petition already filed asking Council to properly provide an adequate

channel for this additional drainage and if this is provided as far North as Cambridge, and made to carry the additional drainage from Williams pond, we offer no objections to the same. otherwise we must hold responsible the city for damages that are now and will surely follow the further drainage mentioned.

O. Granton J. H. Irwin James Davidson
D. Stanton W. H. Thallon W. H. Zimmerman
E. O. Bushong E. W. Cummings
John W. ...

Fanner moved seconded by Yarnes that the Eng be caused to prepare plans for a storm sewer of the area of Williams pond, as the benefit plan.

Which motion was agreed to.

The following communication from the City Solicitor was read.

Alliance, Ohio, May 6, 1912

To the President and
Members of the Council
of the city of Alliance,
Ohio.

Gentlemen:- I desire to call your attention to the case of Harry Miller, et al., v. The City of Alliance, Ohio, et al., for your advise and direction in the matter. This is an action brought by the plaintiff against the city of Alliance, Ohio, in which they ask for an injunction restraining the defendant from assessing or collecting any sum in excess of 50 per cent of the total cost of improving Patterson Street in the city of Alliance, Ohio, between the C. & P. Railroad and the east corporation line of said city, claiming the assessment heretofore levied against the lots and lands bounding and abutting upon said improvement heretofore made to be illegal and claiming that said improvement is a re-paving of said street and that the same is practically like the action brought by C. C. Davidson against the city of Alliance, et al., to restrain the collection of the special assessment levied for the improvement of Ely Street. In this later case now known as the Ely Street Case, the Court of Common Pleas found for the city but the Circuit Court of this Circuit reversed the Court of Common Pleas, having held that the special assess-

levied against the lots and lands bounding and abutting upon Ely Street was illegal and all that could be recovered from the city for that improvement was 50 per cent of all the cost thereof, in the words of the rule: where a street has been improved, macadamized for instance, and the improvement paid, under the Circuit Court a further improvement is held as a re-paving of the street in which case the city can collect for such re-paving only 50 per cent of all the cost thereof. I have also taken up a decision of the Circuit Court of Clark County, in the case of Baldwin et al., v. City of Springfield, et al., in which the same question among others was disposed of, and the finding of the court thereupon was the same as in the Ely Street Case. I have also the opinion of Judge Taggart of the Circuit Court of Delaware, in the case of John Van Deman et al., v. the city of Delaware, et al., who holds substantially the same as our Circuit Court in the Ely Street Case.

The Delaware County is in the same circuit as Stark County, and Judge Taggart who gives the decision in the Delaware Case is also one of the judges of the Circuit Court which passed on the Ely Street Case.

Notwithstanding this decision holding that if a street is improved a second time the second improvement is merely a re-paving of the street for which the city can charge only 50 per cent there are a number of our citizens who think and feel that the Ely Street Case ought to have been taken to the Supreme Court and that this Miller case should be brought under our own court and if necessary taken to the Supreme Court for decision. I have talked to Judge Ambler who held with the city, that is to say, that the city could re-assess the improvement and any new improvement, and who has expressed to me his great regret that the Ely Street Case was not carried to the Supreme Court, giving it as his opinion that had it been taken from the Circuit Court to the Supreme Court, the decision of the Circuit Court would have been reversed and his finding for the city have been affirmed. He has advised to me a thorough study of the case in all its details before answering and has repeatedly suggested to me that there should be a case taken up from this city covering this point. I now ask of you to say whether or not such an answer shall be filed in the case as will prepare the case to be taken to the Supreme Court?

I beg to remain,

Very Resp'y,

William M. Roach
Solicitor.

Farmer moved, seconded by ^{Voss} ~~Farmer~~ that
 the City Solicitor be requested to take one of
 these St. Improvement cases referred to the
 Supreme Court as a test case.
 Which ~~the~~ following communication was presented
 to council

To The Clerk of The Council Of
 The City of Alliance, O.

The undersigned are the owners of the following described
 property in the City of Alliance, Ohio, described as follows:
 A part Out Lot Number sixty-four (64), according to the renumber-
 ed lots of said City of Alliance, situated in the First Ward
 and being a part of the south east quarter of section twenty-six
 (26), Township nineteen (19), range six (6), being further describ-
 ed as follows: Beginning three hundred forty-two and one-half
 ($342\frac{1}{2}$) feet north of the south east corner of land now or former-
 ly owned by L. L. Lamborn in said quarter and which corner is
 at the junction of Main Street and Union Avenue in the City of
 Alliance; thence north sixty (60) feet; thence west two hundred
 and six (206) feet; thence south sixty (60) feet; thence east
 two hundred and six (206) feet to the place of beginning,
 bounding and abutting upon North Union Avenue between Main Street
 and Ely Street and claims that said property will be damaged in
 the sum of Four Thousand Dollars (\$4000.00), by reason of the
 change of grade and interference with ingress and egress to said
 property, by reason of allowing a sunken roadway to be built in
 said street, by reason of ^a retaining wall being placed along said
 excavation and by reason of a guard-rail placed upon said retain-
 ing walls and by reason of the interference with the easement of
 said property owners in the street, as allowed by ordinance
 # 1383, passed on February 5, 1912.

Dated at Alliance, this 25th day of April, 1912.

Filed April 25th 1912
 G. O. Silver
 Clerk of Council

George W. Scrubb
 Flora & Linnob
 By Diehl & Brown
 Their attorneys

On motion the above communication
 was referred to the City Solicitor for
 recommendation.

To The Clerk of The Council Of
The City of Alliance, O.

The undersigned is the owner of the following described property, situated in the City of Alliance, Ohio and described as follows: Being a part of out lot # 63 and commencing for boundary at a point on North Union Avenue Forty (40) feet north of the right of way of The Pittsburg, Ft. Wayne & Chicago Railroad; thence west one hundred and thirty two (132) feet; thence north twenty-six (26) feet; thence east one hundred and thirty two (132) feet; thence south twenty six (26) feet to the place of beginning and bounding and abutting upon North Union Avenue between Main Street and Ely Street and claims that said property will be damaged in the sum of Fifteen Hundred Dollars (\$1500.00) by the proposed change of grade of said street by the building of a sunken roadway, by the building of a retaining wall along said sunken roadway, by the building of a guard-rail upon said retaining wall, by the interference with the right of ingress and egress to said property, by the interference with the right of easement of said owner in the street, as allowed by Ordinance # 1383, passed therefor, on the 5th day of February, 1912.

Dated At Alliance, this 25th day of April, 1912.

Filed April 25th 1912

Edwin W. Diehl

C. O. Siewer

Clerk of Council

*On motion the above communication
was referred to the City Solicitor for recommendation
The following communication was read to council*

Canton Ohio, May 4th-1912.

To The President and Members,
Of City Council of Alliance, Ohio.

Sirs:-

Owing to the ease with which pure carbolic acid can be purchased over the counter at almost any drug store, and the frequent use of this corrosive poisons for suicidal purposes. I would deem it wise that your body enact proper legislation limiting the sale of this drug in solution not over 10% full strength. Full strength solutions only to be dispensed on the written prescription of a reputable physician.

I am aware that other large Citys have an ordinance similar to this suggestion of mine, and it has proven to be a very satisfactory measurer.

Hoping for a favorable consideration of this proposition
I am Sincerely yours.

(Signed) Dr. F.W. Gavin

Referred to Solicitor
Coroner for Stark County.

The following communication was read.

Alliance, Ohio: May 5th-1912.

TO THE HONORABLE COUNCIL OF THE CITY OF ALLIANCE, OHIO.

Gentlemen:-

The undersigned respectfully petition your Honorable Body that they may take immediate action to establish a grade crossing at the high-way of Seneca Avenue across what is known as Morgan Switch of the L.E.A. & W. Railroad, according to the provisions set forth in the General Code of Ohio, Section 8898, relating to the crossing of a public high-way over the tracks of any steam railway.

The conditions of this locality are such that some time ago Seneca Avenue was graded by the City at a great expense to the abutting property owners, and the street as it now stands is platted to the tracks of said company on the South and again to the tracks of said company on the North leaving an intervening space across the tracks of said company which has not been platted or graded.

The way the street now stands, it is of very little use to the public and of no use to the abutting property owners. A great amount of expense has been gone to in improving this street and the joining property, and with very little effort upon the part of your Honorable Body, a crossing can be established over the said tracks which would put all the property in this locality in elegant condition.

We respectfully refer your Honorable Body to the Service Director of your city who can fully explain this matter, as the same has been dragging for some what over three years, and in view of the intervening time this matter has been dragging. We urge that you take immediate steps to obtain a crossing at this place.

Respectfully submitted.

(signed) Max Geiger.

On motion the communication was referred to the City Solicitor.

A communication from Lloyd F. Meyer relating to the dangerous condition of the stand pipe was received and read and on motion referred to the Water committee and Director of Sewer.

Reports of Standing committee.

The com. on Finance submitted their report recommending the passage of Ord. No 1425,

Geo W Jarney
Peter Voss
Fred Farmer

The question being on agreeing to the report of the com. Which report was agreed to.

The com. of Finance submitted their report ~~recommending the passage~~ on Ord No 1421 with the recommendation that the amount be changed from \$60,000. to \$50,000.

Geo W Jarney
Peter Voss
Fred Farmer

The question being on agreeing to the report of the com. Which report was agreed to.

The com. on Finance submitted their report recommending the passage of Res. No. 1426

Geo. W. Yarnum
Peter Voss
Fred Farmer.

The question being on agreeing to the report of the com. which report was agreed to. Special Farmer Chairman of the ~~Street~~ committee appointed to examine the brick on W. Broadway Improvement. reported progress.

The com. on Finance submitted their report recommending the passage of Ord. No. 1427

Geo. W. Yarnum
Peter Voss.
Fred Farmer

The question being on agreeing to the report of the com.

Which report was agreed to

The following ordinances and resolutions were taken up.

Res. No. 1426

Mr Yarnum, To authorize the borrowing of six thousand five hundred and thirty five Dollars for which a certificate of indebtedness shall be issued was read the first time

Yarnum moved, seconded by Voss, that the statutory rule requiring ordinances and resolutions to be read on three different days be suspended, and the resolution read the second and third time.

The question being on the suspension of the rule.

The Yeas and Nays were taken and resulted Yeas 6. Nays 0.

Those who voted in the affirmative were Messrs. Baird, Farmer, Gubb, Gower, Voss, Yarnum.

So the rule was suspended, and the resolution read the second and third time.

The question being on the passage of the resolution.

The Yeas and Nays were taken, and resulted Yeas 6. Nays 0. Those who voted in the affirmative were:

Messrs. Baird, Farmer, Gubb, Gower, Voss, Yarnum.

So the resolution was passed.

Ord. No. 1475

Mr Yanney - To issue bonds for the purpose of paving the city portion of improving certain streets. was read the first time.

Farrar moved, seconded by Gubb. that the statutory rule requiring ordinances and resolutions to be read on three different days be suspended, and the ordinance read the second and third time.

The question being on the suspension of the rule. The yeas and Nays were taken and resulted Yeas 6 Nays 0.

Those who voted in the affirmative were Messrs. Barnard, Farrar, Gubb, Lower, Voss, Yanney.

So the rule was suspended, and the ordinance read the second and third time.

The question being on the passage of the ordinance.

The yeas and Nays were taken, and resulted Yeas 6 Nays 0. Those who voted in the affirmative, were

Messrs. Barnard, Farrar, Gubb, Lower, Voss, Yanney.

So the ordinance was passed.

Res. No. 1477

Mr Yanney. To transfer from one appropriation account to another. was read the first time.

Voss moved seconded by Yanney, that the statutory rule requiring ordinances and resolutions to be read on three different days be suspended and the resolution read the second and third time.

The question being on the suspension of the rule. The yeas and Nays were taken and resulted Yeas 6 Nays 0.

Those who voted in the affirmative were Messrs. Barnard, Farrar, Gubb, Lower, Voss, Yanney.

So the rule was suspended, and the resolution read the second and third time.

The question being on the passage of the resolution.

The yeas and Nays were taken and resulted Yeas 6 Nays 0.

Those who voted in the affirmative were Messrs. Barnard, Farrar, Gubb, Lower, Voss, Yanney.

So the resolution was passed.

Res. No. 1409

Mr Gubb. Declaring it necessary to improve Miller Avenue between S. G. L. State Street to point 1340 ft. South, by grading, draining, curbing and paving with brick block was read the second time.

Gubb moved, seconded by Yarney that the statutory rule requiring ordinances and resolutions to be read on three different days be suspended, and the resolution read the second and third time.

The question being on the passage of the resolution, suspension of the resolution.

The Yeas and Nays were taken and resulted Yeas 6 Nays 0. Those who voted in the affirmative were Messrs Gubb, Voss. Those who voted in the negative were Messrs. Barnard, Farmer, Lower, Yarney, Gubb, Barnard, Farmer, Gubb, Lower, Voss, Yarney.

So the rule was suspended, and the resolution read the second and third time.

The question being on the passage of the resolution. The Yeas and Nays were taken, and resulted Yeas 11 Nays 4.

Those who voted in the affirmative were Messrs Barnard, Farmer, Lower, Yarney, Gubb, Voss. Those who voted in the negative were Messrs. Barnard, Farmer, Lower, Yarney.

So the resolution not having received the necessary $\frac{3}{4}$ vote was lost.

Res. No. 1418

Mr Voss. Declaring it necessary and the intention to abolish the grade crossing at North Arch Avenue, and the Pittsburgh Fort Wayne, Chicago Railroad, operated by the Pennsylvania Company, assigned of the Pennsylvania Railroad Company, Level in the city of Alliance, and State of Ohio pursuant to the provisions of Sections 8863-8873, both inclusive Page Adams Annotated Ohio General Code, was read the first time.

Voss moved, seconded by Lower that the statutory rule requiring ordinances and resolutions to be read on three different days be suspended and the resolution read the second and third time.

The question being on the suspension of the rule. The yeas and Nays were taken, and resulted Yeas 6. Nays 0. Those who voted in the affirmative were Messrs. Barnard, Farmer, Gubb, Lower, Voss, Yarnes.

So the rule was suspended, and the resolution read the second and third time.

The question being on the passage of the resolution.

The yeas and Nays were taken, and resulted Yeas 6. Nays 0. Those who voted in the affirmative were Messrs. Barnard, Farmer, Gubb, Lower, Voss, Yarnes. So the resolution was passed.

No. No 1419

Mr Patton, Declaring it necessary as an emergency measure, to improve Fifth Street, where extended across the right of way and under the tracks of the Cleveland - Pittsburg Railroad was read the first time.

Farmer moved, seconded by Barnard that the statutory rule requiring ordinance and resolutions to be read on three different days be suspended, and the resolution read the second and third time.

The question being on the suspension of the rule. The yeas and Nays were taken, and resulted Yeas 6. Nays 0.

Those who voted in the affirmative were Messrs. Barnard, Farmer, Gubb, Lower, Voss, Yarnes.

So the rule was suspended, and the resolution read the second and third time.

The question being on the passage of the resolution.

The yeas and Nays were taken and resulted Yeas 6. Nays 0. Those who voted in the affirmative were Messrs. Barnard, Farmer, Gubb, Lower, Voss, Yarnes.

So the resolution was passed.

Ordinance No. 1413.

Mr. Yarnum. An ordinance to regulate the selling, furnishing and giving away of intoxicating liquors as a beverage, and places where same are sold, furnished and given away in the city of Alliance, State of Ohio was read the first time.

Ord. No. 1421

Mr. Yarnum. For an agreement with The Alliance City Hospital Association, a corporation not for profit, organized in the city of Alliance, Ohio, for charitable purposes. was read the first time.

The following petition was presented to council

To the Honorable members of the City Council
of Alliance

We the undersigned property owners on W Broadway Street in the city of Alliance, O between Lincoln Avenue and the Rockhill Road, hereby protest against the use of the block now located along said highway for paving purposes on said street, for the reason that the same are inferior as shown by the report of the State Highway Commissioner attached to an affidavit herewith submitted

Signed by citizens

On motion of Yarnum. Council adjourned.
Attest
Chas. Silver J. W. Hulse
Clerk President