

- June 16<sup>th</sup> 1913 -

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, Patton  
Present 4. Absent 3.

June 16<sup>th</sup> 1913

To the Honorable President and Members of Council,  
City of Alliance, Ohio.

Gentlemen;

I have to report to you that Judge Day today handed down opinions in the cases of Noah Wallenbaugh et al. versus the city of Alliance et al. and the Crawford, and the Consolidated Realty Co. vs. the city of Alliance. Wallenbaugh case involved the validity of the street assessments on corner lots abutting on Miller Street and also the corner lots abutting on East Cambridge and Rue Street.

The improvement was made by the old council and the assessment on corner lots was made by the foot frontage, that is, by the entire lengthwise of such lots; the assessment levied being \$3.24 per foot frontage. The action brought to enjoin the city from collecting this assessment was on the ground that it was not properly levied. In handing down his opinion to-day, Judge Day perpetually enjoined the City from collecting that assessment on the grounds of its illegality, but goes further in support of the City's contention and finds that instead of the assessment being \$3.24 per foot frontage it should have been \$4.54 per foot frontage, and that this rate should have been levied against all of the property abutting on these streets, and which was ordered by the court that your Honorable Body proceed at once to pass a reassessing ordinance under Section 3907 General Code under the rule in the Haviland Case 50 O.S. 471 which provides that in assessing corner lots for street improvements such lots shall be deemed turned breadthwise on the improvement and assessed for such amount and no more, and that the rate per foot frontage shall be at the rate of 4.545 paid by property owners and submit this to you that you may take such action in the premises as you may deem proper.

The rate of \$4.545 paid by all the property owners will provide a fund for paying the property owners' portions for said improvements, the city paying 20% of the whole total cost and the cost of intersections.

In relation to the case of Joseph Crawford et al. the

plaintiffs were Joseph Crawford, The Consolidated Realty Company, and Jesse Scranton. In the matter of the assessment levied against Joseph Crawford the court refuses a perpetual injunction, holding that the assessment was properly and legally made by Council.

It will be recalled that Joseph Crawford purchased two vacant lots at the south west corner of intersection of Haines Avenue and West Cambridge Street; that these lots were platted with a frontage of 40 feet each on Haines Avenue, with a depth of 105 feet on West Cambridge Street; that at and before the improvement was made on West Cambridge Street, Crawford had erected a dwelling house on the east end of these two lots; that such house had an architectural front on West Cambridge Street without any opening on the side west to Cambridge Street; that the front, that is the north line of the porch on the front of the house was within 16 feet from the south line of West Cambridge and that the rear of the house extended south to within 14 feet of the south line, Crawford's property, and that in building on said lots in the manner in which the house was designed and built, and in the use and occupancy of the house and the portions of the lots lying west of it Crawford had changed the front of his lots from Haines Avenue to West Cambridge, and that the true front of the lot and for which Crawford was and is legally charged is 105 feet, that being the amount for which he was assessed by the former Council.

In relation to the Consolidated Realty Company lot, the Court held that inasmuch as the president and manager of the Company, R. M. Scranton, in signing a waiver and using his influence toward making this improvement would not bind the Company, and even if Council had been misled by his conduct in the matter, the Company cannot be held and that the court would perpetually enjoin the City from the collection of the assessment.

In relation to the premises of Jesse Scranton, the Court finds the assessment so excessive that it made the injunction, so far as it relates to the assessment, as made by former Council, perpetual.

I am very well satisfied with the result of this litigation.

Very truly

(signed) Wm. M. Roach  
Solicitor

Farmer moved, seconded by Gubb, that the City Solicitor be instructed to prepare reassessing ordinances on Melner, Jew, and East Cambridge St.

Which motion was agreed to.   
Farmer moved, seconded by Bayman that the Statutory rule requiring the City Solicitor be requested to prepare ordinance to fix the value of depth of Col. 1905, which motion was agreed to.

the undersigned residents in the vicinity of the Buckeye Handley Gear and Building Co. petition the council to investigate the nuisance caused by smoke from the smoke stack.

Mrs O'Wack, Mrs Jesse Miner, Mrs H. Watz, Mrs Jack Ward, Esther Barrett, Mrs James Hoppes. Referred to Mayor.

Ord. No. 1609

Mr Patton, To issue bonds for the purpose of erecting works for the generation and transmission of electricity to the City of Alliance, Ohio and the inhabitants thereof, for illuminating and power purposes. was read the second time.

The Finance Com. submitted the following report.

Alliance, June 16<sup>th</sup> 1913

To the Honorable Council  
 City of Alliance, O.

Gentlemen

The Finance Committee to whom was referred the Annual Budget of current expense for the year 1914.

We have to report that carefully considering every item of the budget would recommend the following:

General fund	\$ 114,810.00
Safety	" 35,479.00
Police	" 33,260.00
Health	" 1,925.00
Hospital	" 500.00
Drinking Fund Interest	37,500.00
	<u>\$ 123,474.00</u>

We further present to you a detailed statement showing the amount set forth for each item of expense.

Respectfully Submitted  
 J. J. Farmer

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

The Finance com. submitted Resolution No 1613, and recommended passage  
H. Farmer  
G. W. Jarney

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

Which report was agreed to.

The Finance com. submitted Ordinance No 1612 and recommended passage.

G. W. Jarney  
Fred Farmer.

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

Res. No. 1613

To certify the revised Annual Budget to County Auditor was read the first time.

The question being on the adoption of the resolution. The yeas and Nays were taken and resulted Yeas 4 Nays 0 Those who voted in the affirmative were.

Messrs. Barnard, Farmer, Gubb, Patton

So the resolution was passed.

The following ordinances were introduced  
Ord. No. 1615

Mr Farmer. An ordinance to establish a grade on alley south of Main Street from E. L. L. Union Avenue to W. L. L. Mechanic Avenue.

Referred to com on grade.

On motion of Farmer, seconded by Gubb  
Council adjourned.

Attest  
Chas. Silver - Justice  
- Clerk. - President -