

PROCEEDINGS

OF

THE COMMON COUNCIL

OF THE

CITY OF ROCHESTER,

FOR

1872-3.

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ROCHESTER, N. Y.:

PRESS OF CURTIS, MOREY & CO, UNION AND ADVERTISER OFFICE.

1872.

## WATER WORKS.

The city of Rochester may contract with a private company to supply the city with water, substantially upon the basis of the proposition made by Rand & Co., provided that satisfactory terms in the amount to be paid by the city to said company can be made, and also as to the detail of said contract, in guarantees to the city, &c., and particularly in such provision with said company as shall secure the fitting of the pipes, now laid in the city, from the Genesee river for fire purposes at the earliest practicable time; and that the late act entitled "An act to supply the city of Rochester with pure and wholesome water" should be repealed.

## CITY HALL.

The Common Council may build a City Hall on the site heretofore selected for that purpose at a cost not exceeding \$200,000, and use the proceeds of the sale of the city's interest in the Court House towards defraying the expense of such structure, and issue bonds of the city for the balance, such bonds to be of such denomination and payable at such time as the Council may direct, bearing interest at a rate of not more than seven per cent, per annum, and to be disposed of at not less than par. The proceeds of said bonds to be used for no other purpose than the construction and furnishing of said building.

In presenting the foregoing your Committee are not unmindful of the fact that the work of reforming the charter has not been by any means made complete by them. It has been deemed advisable to await your approval of the suggested basis of charge, ere they or any whom you may designate should enter upon the work of perfecting the detail. There are yet subjects of change which remain unconsidered by the Committee, but in view of the early session of the Legis. ure, we have thought best to present such matters as have been under consideration, leaving the others for the future.

It may not be amiss to say that the propositions herewith submitted have, with but one or two exceptions, met with the unanimous approval of the committee after a full and free discussion of each, accompanied with an evident desire to devise what to them seemed promotive of the best interests of the city and taxpayers.

We also present an accompanying report of a sub-committee in relation to the supply of water for the city, with added resolutions, to which, in view of the importance of the subject, we respectfully ask your careful attention.

Respectfully,

JESSE SHEPHERD,      PATRICK BARRY,  
Secretary.                      President.

ROCHESTER, Dec. 31, 1872.

Ordered received, filed and published.

To the Committee on Charter Amendments:

Your Sub-Committee, appointed to examine and report upon Water Works, submit the following:

Rochester needs an abundant supply of pure and wholesome water. The source from which it must be drawn (assuming Hemlock Lake as the source) is so distant that the expense is of necessity very large in proportion to the taxable property of the city.

Estimates made by Mr. J. Nelson Tubbs, civil engineer, have been recently published. By such estimates a supply of six million gallons per day, from Hemlock Lake, with forty miles of distributing pipe, will cost \$2,224,000 (page 46.) A supply from the same source of four million five hundred thousand gallons per day, and also water for fire purposes pumped from the Genesee River by the

Holly apparatus operated by water power (length of distributing pipe not stated) will cost \$2,184,000 (page 51.) Of this amount \$346,000, it appears, is for the Holly System, and \$1,838,000 for the supply from Hemlock Lake. An item of \$40,105 for contingencies, engineering, &c., in the first estimate for six million gallons, is omitted from the others; for what reason is not apparent.

These estimates do not include anything for the right of way for the conduit pipes through a distance of twenty-eight miles, except fifteen thousand dollars; "land damages, not including reservoirs." Pipes cannot be laid in highways without compensating the owners of the fee, if they shall insist upon their legal rights, or without purchasing from those who have already acquired the privilege from the owners. Nor do the estimates cover any of the large and indefinite damages that may be claimed for injury to mill sites, &c., occasioned by directing so great an amount of water from its natural channel. The annual charge for interest and expenses as estimated at \$174,000, or nearly one-third of the whole city tax levied this year (\$543,080.59.)

If the city shall undertake the enterprise, it is obvious that *no limit can be fixed to the amount that may be expended.* If the public agents, whoever they may be, shall exhaust the previously determined estimates, or reach the limit of their powers, before the completion of the work, the whole amount expended will be lost (excepting only the value of materials) unless the necessary means shall be provided for constructing the unfinished portion. Experience teaches that in such cases the estimates almost invariably fall far short of actual results. The damages which might be recovered of the city for injury to water power, &c., are a formidable item, and cannot easily be estimated.

But supposing the Works to have been constructed by the city, the question how the expense shall be assessed would be the occasion of much difficulty and irritation. How much shall be apportioned to those immediately interested? and how much shall be levied, in the tax rolls, upon the whole city, for the public benefit? Shall all the lots within the Water District be charged with water rates, or only those whose occupants use the water? Shall remote portions of the city to which the mains do not extend be subject to any tax for water rates? If the assessment be put upon consumers only, they will argue that those in the Water District who can take the water, but do not, are getting a benefit in the enhanced value of their property for which they should be made to pay. And then the argument will be extended to those outside of the Water District, and it will be claimed that they, too, should be assessed for water rates, because of the incidental benefit they derive in health and increased values by the existence of Water Works in the city. And when the number of consumers becomes a majority of the whole population, they can enforce their arguments by their votes.

These objections do not lie against Water Works owned by a private company. The city, in that case, would purchase only the

water needed for public uses, and would pay a price fixed by contract. The only "water rates" would be those collected by the company from individuals voluntarily taking the water. These considerations show why consumers supplied by a private company may clamor for the transfer of the business to the City Corporation: they may be anxious that others, not consumers be compelled to bear a portion of the water rates, the whole of which they themselves are paying. But it is suggested that a private corporation may exact unreasonable price and that when consumers have abandoned the use of wells and become dependent upon the supply from the water mains, they will be powerless to resist such exactions.

First—The objection may be removed by proper stipulations in the contract.

Second—The rain that falls upon the roof of every dwelling is enough to supply the occupants with abundance of water, in every season, if it be retained in cisterns or reservoirs of sufficient capacity.

Third—The self interest of the company would prevent exorbitant charges. The price which would invite the most customers and yield the largest income would not be an excessive price.

Again, it is urged that there is a large profit to be made which the city should secure to itself. This statement is not supported by facts.

In the publication before mentioned, the estimated cost per year is \$174,000; the estimated gross income, \$105,000; loss \$69,000. And the estimate of income, as will be shown is more than twice what can be reasonably expected. Results in other cities also rebut the statement. Detroit is cited as a city where a net profit is made, over yearly interest and expenses, of \$35,689.38. But the cost of its works is only \$1,030,372, against \$2,224,000, the estimate for Rochester, and the difference in cost is \$1,193,628. On this basis, assuming the income from water in the two cities to be the same, there would be a loss in Rochester of \$47,864.58. But it is clear that the income in Rochester must be much less than in Detroit. The water works there have been in operation for twenty years, and the length of distributing mains is 138 miles, while the above estimate for Rochester covers only 40 miles of mains in the city. By the last U. S. census (1870) Detroit had a population of 79,580, when Rochester had 62,385. So far as your committee have been able to ascertain, in the brief time they have had, the direct pecuniary results of water works in cities are not profitable. In considering the comparative advantages of public and private water companies, direct pecuniary results only are material. Both alike afford the same incidental benefits. The cities, of course, must be as healthy, the rates of insurance, expenses of the fire department and direct and indirect losses by fire, as much diminished, and property as much enhanced in value, whether the same supply of water comes from works built by public or by private funds. As a matter of fact, your committee believe private companies have not generally been solicitous of supplying cities with water, nor

is the stock of such companies usually in demand or found to be a profitable investment. The stock of a private corporation which should secure from the city authorities, a contract, such as has been proposed to them, would not be sought after or generally taken by our citizens. Indeed your committee have found many who object to such a contract because they doubt the performance of it by the company, but none who would be willing to subscribe for any of its stock as a promising investment. It is true that the parties who make the offer can have no motive but the hope of pecuniary gain. Their favorable position as the purchasers of a large amount of property and valuable rights at much less than cost, may warrant them in entertaining such a hope. It is certain that they have in this respect a great advantage over the city or any company which would be under the necessity of purchasing the property and rights which they now possess. The persons referred to offer to contract, and to give the most ample security, that they shall afford an abundant supply of water from Hemlock Lake, at a price to be paid for the water when delivered, and not before—a price which in the opinion of your Committee is less than the cost of the same water would be if supplied by works built at the expense of the city.

Under such a contract we should know definitely the amount of liability the city assumes, and we should avoid taking any risks or adding to our city debt.

The objection that such a contract may not be fulfilled by the completion of the works, can be removed by taking ample security to indemnify the city in case of failure on the part of the contractors—a condition with which the parties offer to comply by a deposit of money, if required. Such a proposition is inconsistent with any other than a sincere purpose to push the works to completion, and make them of the most substantial and permanent character as soon as practicable. Their interest and the city's, in this respect, is obviously the same. In the recent publication before alluded to, the following account is stated as showing the benefit of water works if made by the city.

(page 14.) CREDIT.	
Income from consumers .....	\$105,000
Saving in expense of Fire Dep't .....	35,000
Value to city for fire purposes .....	70,000
Reduction of insurance rates .....	60,000
	\$270,000

DEBIT.	
Interest on cost .....	\$154,000
Operating expenses.....	20,000
	\$174,000

Surplus to credit of water works over interest and expenses .. 96,000

On the same basis the following account shows the benefit of the proposed contract with a private company:

CREDIT.	
Saving in expense of Fire Dep't.....	35,000
Value to city for fire purposes.....	70,000
Reduction of insurance rates.....	60,000

\$165,000

## DEBIT.

Amount paid on contract.....	70,000
Leaving.....	\$ 95,000

or the interest on over one million three hundred thousand dollars net profit to the city under a contract with a private company!

With this assurance of profit, at an expense of only \$70,000 per annum, the city could afford to let capitalists take the chance of profit or loss in an investment of over two million dollars!

It is said, however, that not only will a private corporation realize great profits, but we shall be compelled by exactions and official insolence to purchase the Works at the stipulated price, namely, a premium of 20 or 25 per cent. added to the actual cost. Why, if Works are so profitable, the owners should wish to sell, it is not easy to see. But the question may well be considered whether even this contingency—the purchase of the completed Works at a premium, when success shall have been assured—is not preferable to entering upon a work the cost of which is large and indefinite, and its success, as a financial measure, very doubtful. If not successful as an investment, the company will gladly sell out to the city, at less than cost, and the city can purchase or not as it pleases.

In every aspect of the subject, it seems to your Committee, the interests of our city will be promoted by letting the work be done by private capital. If it shall prove a poor investment for the stockholders, their loss will be our gain; if a profitable venture we can afford, in view of the great incidental benefits to the city, either to buy out the company or let them enjoy the reward of their enterprise, as we may prefer. In the latter event, the tax-payers as such will contribute only the stipulated price of the water supplied for public use. This is a consideration of great importance to that large class of industrious citizens who reside remote from the centre and *outside of the water district*. No loss will fall on them, nor will they contribute to swell the gains of the private company. The published estimates contemplate forty miles of water-pipe in the city, not so much by several miles as the gas mains, and forming a water district smaller than that supplied with gas. To charge the expense of water for this limited section on the tax-payers of the whole city would be manifestly unjust. Yet it is certain that if two million or three million dollars of city bonds shall be issued, all the tax-payers will be responsible for the whole principal and interest, taking their chance of relief by the water rates to be collected from consumers or from owners of lots on the streets in which water mains may be laid. The probable amount of such water rates is therefore a matter of vital interest.

The following water statics of the city of Detroit for the years 1869 and 1871, (the only recent years of which your Committee have official reports) will shed more light on this subject than any uncertain estimates. The population of that city is about twenty thousand greater than that of Rochester. In density of population and in other respects

the two cities are very much alike. The water works there have been in operation twenty years. Their water income in 1869, from 113 miles of distributing pipe, was \$115,252, and in 1871, from 131 miles of pipe, was \$138,325, or between \$1,000 and \$1,100 per mile. Assuming the same rate of income from the forty miles of distributing pipe proposed to be laid in our streets, they would yield an income of less than \$43,000. Add the maximum amount to be paid by the city under proposed contract, \$70,000, and we have \$113,000, or seven per cent. or less than \$1,700,000 as the gross income, out of which a private company must pay expenses and make its dividends on the capital invested. If the city should build the works and incur the annual expense, estimated by Mr. Tubbs at \$174,000, it would receive an income from water rates of not exceeding \$43,000, leaving \$131,000, or one per cent. on the assessed valuation of the city, to be levied in the annual tax rolls.

In view of these facts and figures, your Committee do not apprehend that any private company will make excessive profits by supplying our city with water; while the promise of future increase in water consumption may induce these capitalists to undertake the enterprise, who have already acquired a large amount of iron pipe and other available property and rights at much less than cost.

In conclusion, your Committee submit the following resolution:

Resolved, That the Charter should be amended by giving to the Common Council power to enter into a contract with a company or individuals, whereby the latter shall be bound at their own expense to construct Water Works and furnish the city, for a term of years, with a supply of water from Hemlock Lake, or from that lake and some other source; and the City of Rochester shall be bound to pay a stipulated compensation for the portion of water so supplied, which it shall have for the extinguishment of fires and other public uses, as such water shall be delivered; and such contract shall contain such details, terms and conditions as the Common Council may deem necessary or proper for the protection of the interests of the city and its inhabitants.

Provided, however, that such contract shall contain a stipulation authorizing the City of Rochester, at any time, to acquire the full ownership of such works and appurtenances on terms and conditions therein expressed. And also a stipulation that in case the contractors shall, at any time, neglect or refuse, and fail to maintain and keep up such works and appurtenances, after constructing the same, or to furnish the stipulated amount of water, the city shall have such rights and remedies, to be specified in such contract, as shall secure the city's rights and the prompt supply of water.

And, provided further, that such contract shall be the first and superior lien and charge upon the said Water Works, pipe and appurtenances, real and personal property, as security for the fulfillment and continued performance of such contract on the part of such contracting company or individual.

And, provided further, that the compensation stipulated to be paid by the city shall not exceed seventy thousand dollars per annum, unless there shall be more than forty miles of distributing mains within the city limits, and more than four hundred hydrants, and then not exceeding one hundred dollars additional per annum, for each hydrant beyond four hundred that may be provided for in such contract. And

it shall be the duty of the Common Council to require satisfactory security for the construction of the said works, in a good and substantial manner, fully complete and satisfactorily tested.

Resolved, That in view of the important interests, the large amount of money, and the long period of time involved in such a contract, its terms should be most carefully and maturely considered, similar contracts with other cities examined, and its provisions framed by the most competent and experienced persons, to be selected by the Common Council for the purpose, including an Engineer especially skilled in Water Works.

Resolved, That the Charter should be so amended that in case the Common Council shall not make a contract for a supply of water from Hemlock Lake, or in case such contract, if made, be not fulfilled, the Common Council shall have power to supply the city with water from the Fire Department and other public uses, from the Genesee River, by the Holly system (so called) or in some other manner, and for this purpose to raise funds by the issue of city bonds to an amount not exceeding ..... dollars.

[The blank to be filled by the Common Council.]

ROCHESTER, December 30, 1872.

THOS. C. MONTGOMERY,  
A. STERN,  
HENRY T. ROGERS,  
JESSE SHEPHERD,  
Sub Committee.

By Ald. Rogers—Whereas, at the recent election in this city, the people expressed in the most emphatic manner their decided condemnation of the acts passed at the last session of the Legislature imposing certain Commissions on this city, and containing other obnoxious provisions; therefore,

Resolved, That our Senator and Member of Assembly be and they are hereby requested to urge the immediate repeal of such acts.

Ald. Craig moved to divide the question so as to take a vote upon each Commission separately.

Ald. Selye moved to table the whole matter. Lost by the following vote:

Ayes—Ald. Aldridge, Cowles, Howard, Craig, Selye—5.

Nays—Ald. Gould, Pond, Rogers, Gorton, Caring, Stern, Connolly, McConnell, Croft, Kelly, Stape, Nellis, Gerling, Mitchell, Whitmore, Griffen, Stade, Mauder, Aikenhead, Farber—20.

Ald. Craig's resolution was then declared lost by the following vote:

Ayes—Ald. Aldridge, Cowles, Gould, Howard, Craig, Croft, Selye—7.

Nays—Ald. Pond, Rogers, Gorton, Caring, Stern, Connolly, McConnell, Kelly, Stape, Nellis, Gerling, Mitchell, Whitmore, Griffen, Stade, Mauder, Aikenhead, Farber.—18.

Ald. Roger's resolution was adopted by the following vote:

Ayes—Ald. Gould, Pond, Rogers, Gorton, Caring, Stern, Connolly, McConnell, Croft, Kelly, Stape, Nellis, Gerling, Mitchell, Whitmore, Griffen, Stade, Mauder, Aikenhead, Farber—20.

Nays—Ald. Aldridge, Cowles, Howard, Craig, Selye—5.

By Ald. Cowles—Resolved, That the City Treasurer cancel the tax erroneously assessed to N. L. Button, which should be assessed to No. 3 School House, being for lots 40 and 41 in the Third Ward (said land sold May 24,

1872, for school purposes) and charge Local Assessments upon City Property Fund. Referred to the Committee on Assessments.

Bills of Smith & Poppy, A. J. Warner, J. Kolb and others. Fire Department Committee.

On motion of Ald. Kelly adjourned.

WILLIAM F. MORRISON,  
City Clerk.

### In Common Council, Jan. 7th, 1873. Regular Meeting.

President—Ald. George W. Aldridge, presiding.

Present—Ald. Aldridge, Gould, Howard, Pond, Rogers, Gorton, Caring, Fee, Stern, Connolly, McConnell, Craig, Meyer, Croft, Selye, Kelly, Stape, Nellis, Gerling, Whitmore, Griffen, Stade, Mauder, Aikenhead, Farber—25.

Absent—Ald. Cowles, Heavey, Mitchell—3.

#### APPROVAL OF MINUTES.

The minutes of the previous meetings, December 24th and 31st, were approved as published in Book of Proceedings.

#### PRESENTATION AND REFERENCE OF PETITIONS, CLAIMS, ETC.

By Ald. Gould—Bill of Connell & Dengler. Fire Department Committee.

By Ald. Rogers—Bills of John M. Dunning, Geo. Truesdale and Masseth & Berdel. Committee on Opening and Alteration of Streets. Bill of C. Kneble. Committee on City Hall.

By Ald. Caring—Bills of Rauber & Viceinus and Thomas Stetson. Sewer Committee.

By Ald. Stern—Bill of Thomas Knowles. Map and Survey Committee.

By Ald. Connolly—Bills of N. H. Galusha, Boyd & Hart and Chas. A. Jeffords. Lamp Committee.

By Ald. McConnell—Bills of Sherlock & Sloan, Wilson & Pond, Adams, Blackmer & Lyon, Geo. W. Harrold, Henry Theim, M. F. Spohr, John W. Adams, A. S. Mann & Co., Curtis & Brewster and M. N. Van Zandt.—Committee on House for Idle and Truant Children.

By Ald. Meyer—Bills of Dan'l Iles, James O. Donoughue, S. A. Pierce, S. A. Zorn, Sam'l M. Sherman and Herman Mutschler.—Police Committee.

By Ald. Kelly—Petition of Jas. Goodwin for permission to erect a wood building on his lot No. 4, situate upon Saratoga avenue.—Wood Building Committee.

Estimates and bills of Thomas Leighton, Rauber & Viceinus, Rochester Printing Company, Martin Neid, Pollock & Weaver, Holloway & Normington and Benjamin Butler.—Committee on Streets and Bridges

By Ald. Selye—Estimate and bill of Cha's Reiber and J. M. Anderson.—Improvement Committee.

By Ald. Nellis—Bills of Masseth & Berdel, C. F. Muntz & Co., Jesse Shepherd and Beach & Son.—Contingent Expense Committee.

By Ald. Gerling—Bill for Bell ringing—Fire Dept. Committee.