

Hobson & Wilkerson.....	\$3,297 78
Dubois & Williams.....	6,790 22
Pacific Paving Company.....	816 75
Boulahan & Griffiths.....	3,089 00
Mountain Stone Company.....	7,720 72

Total.....\$21,691 45

Adopted.

THE R. G. W. SEWERAGE.

The committee on sewerage to whom was referred the petition of the Rio Grande Western for privilege to connect with the city sewer mains, recommended that the petition be granted.

THE ELEVATED SIDEWALK GRADE.

City Attorney Hall presented the following written opinion on the petitions of the Salt Lake Dramatic Company, Lindsay Sprague and others who asked that the city remunerate them for the damage done their property by the elevated sidewalk grade on State street, between South Temple and First South streets:

First—If the fill of the street is in the adjoining lot-owners, the State has an easement to adapt the street to an easy and safe passage over its entire length and breadth. When making or improving the streets within its limits, in the exercise of an authority conferred by statute, a city is the agent of the State, and, if it acts within that authority, and with due care, dispatch and skill, is not at common law answerable for consequent damages.

Second—Acts done in the proper exercise of governmental powers and not directly encroaching upon private property, although their consequences may impair its use, are not a taking within the meaning of the constitutional provision which forbids the taking of such property for public use, without just compensation therefor.

The text of Dillon on Municipal Corporation, says the opinion, is to the same effect.

However, if in grading a street or sidewalk the city causes earth to be deposited upon an adjoining lot, or breaking down fences, it is liable for the damage caused. *Hendershott vs. Ottumwa*, 46 Iowa, 658 (1877).

I find no law of Congress or of the Territorial legislature giving a property owner a cause of action for consequential damages against the city for the grading or paving of a street or sidewalk, provided such paving is done in the way as required or announced in the foregoing authorities.

In conclusion, permit me to suggest that a special committee be appointed, with the city engineer associated, to investigate as to whether the city in grading and paving the sidewalks in question has acted within the limits of the rule which I have quoted as controlling the question submitted; and if not, in what respect and the amount of damages sustained by the petitioner.

THE DEEP CREEK ROAD.

The ordinance granting a right of way to the Deep Creek Railway Company through this city was taken up and read and laid over for one week.

It provides that all tracks shall be laid in the center of the streets; that they shall conform to the grade of the several streets; that whenever any of the streets along which the track runs shall be paved the company shall pave between the rails and for a space of two feet outside of each rail; that the company shall gravel and maintain in good condition the streets for a distance of twenty feet on each side of the outer rails; that the construction of the railway commence within ninety days after the passage of the ordinance, and that the same shall be completed

and equipped in a first-class manner and cars running thereon from the city limits to the Deep Creek mining country within twelve months after the passage of the ordinance.

The usual restrictions as to the crosswalks, water boxes, speed to be maintained, etc., are also incorporated. The ordinance provides that the right of way shall be as follows:

Commencing at the eastern city limits on Tenth or Roper street, running thence west to the city canal, thence northwest along the east bank of said canal to Eighth South street; thence west along said Eighth South street to the Jordan river; thence across said river to Indiana avenue; thence west on said Indiana avenue to the county road on First street, west of Cheyenne avenue, and running north and south; thence south on said county road 520 feet, more or less, to the county road running west; thence west on last mentioned county road to the city limits.

WILL NOT MODIFY.

The committee to whom had been referred the petition of the Pacific Paving Company and others asking certain modifications in the specifications of the State street pavement, reported that no modifications were necessary. Adopted.

SUNDAY CONCERTS.

The committee on licenses recommended that the privilege be granted to give Sunday concerts in the Wonderland Theatre. The recommendation was defeated.

WANTS THE CITY MARSHAL SUSPENDED.

Just as Recorder Jack was about to read the appropriation list, Councilman Pickard jumped up and excitedly stammered out the following which he had taken the precaution to place on paper before the Council meeting commenced:

With reference to the order concerning the arrest of persons keeping disorderly houses, I have to state that Marshal J. M. Young came to me a few days ago stating that he had some thirteen or fourteen complaints against these houses and asking my pleasure as acting mayor in this matter. Upon asking him the custom in the department, he replied that it was customary to pull these houses every two or three months. I informed him that I thought he had better wait until the return of Mayor Scott, in two or three days, who would be able to give the matter his personal attention as heretofore. Three days after this interview the marshal came to me and stated that, he did not like to take the responsibility of holding off the arrests until the return of the Mayor without some authority and asked me to sign an order to that effect. I signed that order as I was assured it was in accordance with the regular routine of city business. Marshal Young immediately violated the order he in this manner induced me to sign for purposes best known to himself.

I therefore move that the chief of police be suspended for twenty days pending an investigation, and I ask that a committee of five be appointed to conduct such investigation.

Hyde—I second the motion.

Lynn—Before the motion is put I wish to inquire of the city attorney if we have the authority—

Pickard (quickly)—Of course we have.

Mayor Scott—He is city—

Marshal (interrupted Mr. Pickard)—and we have a right to suspend him twenty days pending an investigation.

Lynn—I again call for the opinion of the city attorney.

Pickard—I want to say first, the chief of police is an appointive office.

Mayor Scott—You are mistaken Mr. Pickard, Mr. Young was elected by the people.

Pickard (angrily)—I don't care whether he was elected or appointed, I want him called to account. He has done me a wrong.

City Attorney Hall then said: I have before given my opinion to this council on a question similar to the one under discussion. An officer cannot be suspended or removed without specific charges are preferred in writing against him. It is the duty of the city marshal to enforce the ordinances against lawlessness. If an agreement is arrived at between the marshal and mayor not to make any arrests and the former subsequently finds it necessary to violate such agreement, I do not think he can be tried for misconduct.

Pickard—I have made these charges openly and I ask for the protection of this Council; more than that, I demand it, and I again call for the question.

Mayor Scott—I rule it out of order.

Pickard (Jumping to his feet)—I beg your pardon, Mr. Mayor, it is not out of order. My motion is seconded.

Mayor Scott (firmly)—I have ruled the motion out of order. If you will amend it by making specific charges I will then put it willingly. According to my own convictions and in the face of the ruling of the city attorney it would be illegal.

Pickard—If I can't get justice from you, Mr. Mayor, I shall carry the matter into the Third District Court. (Sarcasically) I guess I have got that right.

Mayor Scott—You certainly have, Mr. Pickard, but I must decide according to the rules. Mr. Young was not elected by this Council, but is ex-officio chief of police by reason of his election as city marshal. We therefore cannot suspend, at least without proceeding in some other way.

Folland—There seems to have been a breach of confidence committed and there certainly ought to be some way to adjust the difficulties.

Mayor Scott—That cannot be done in the manner proposed. It is a personal matter over which this body has no jurisdiction.

Pickard (very excitedly)—I beg to differ with you. I can reach him. I don't care whether he is elected by the people or appointed by the council. That man has cast unpleasant insinuations against me.

Mayor Scott—Again I say that it is a personal matter. You have not accused the marshal of neglect of duty. Are you willing to do that? If so the case can be investigated.

Pickard—I charge him with a breach of official confidence.

Mayor Scott—I cannot entertain it.

Pickard—Then I charge him with neglect of duty on account of violating the agreement between us.

Lynn—It is out of order.

Pickard—I call for the question.

Mayor Scott—You must make your charges in writing.

Pickard—I have.