

and to prescribe fines and penalties for the violation of any ordinance or resolution; but no fine or penalty shall exceed the jurisdiction of a justice's court. No ordinance or resolution for the establishment of a shore line shall take effect before a map, approved by the common council and showing such shore line, shall have been filed in the office of the city clerk. Such maps, when so approved and filed, and all ordinances and resolutions adopted by the common council, or copies thereof duly attested by the city clerk and the seal of the city, shall be evidence in all courts and places.

SECTION 2. Section 1, of chapter 257, of the laws of 1885, is hereby amended by striking out of said section the words, "on or before the second Tuesday of April," where they occur in the sixteenth and seventeenth lines thereof.

Amend section 1, chapter 257, laws of 1885.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1889

[No. 50, S.]

[Published March 26, 1889.]

CHAPTER 134.

AN ACT to amend chapter 49, of the laws of 1887, entitled, "an act to incorporate the city of Onalaska."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

SECTION 1. Section 4, of chapter 4, of chapter 49, of the laws of 1887, entitled, "an act to incorporate the city of Onalaska," is hereby amended by adding thereto, at the end thereof, a new subdivision as follows:

Amendment to chapter 49, laws of 1887.

17. To regulate, prevent and control the keeping of honey bees within the corporate limits, or any part thereof, and to prohibit any act, the commission or continuance of which may endanger health, persons or property.

SECTION 2. Section 9, of said chapter 4, of said

chapter 49, is hereby amended by adding thereto, at the end thereof, the following: The common council may, by the affirmative vote of two-thirds of the aldermen elect, dispense with the application required by the next preceding section (section 8) and order the construction of any new sidewalk within the corporate limits, if deemed necessary or expedient, and proceed in the manner provided in this chapter.

SECTION 3. Said chapter 49, is further amended by adding thereto a new chapter, to be known as chapter 6.

CHAPTER VI.

STREETS, ALLEYS AND PUBLIC GROUNDS.

Public streets,
alleys, etc.

SECTION 1. The common council shall have power to lay out public streets, alleys and roadways, and to extend, enlarge, widen, discontinue or vacate the same, and to condemn and take lands therefor, and for other municipal purposes, as follows: Any ten or more freeholders, residing in the city may, by petition, represent to the common council that it is necessary to take lands within the city limits for public use, for the purpose of laying out, enlarging, extending or widening one or more streets, alleys or roadways, or for public grounds, or other public purposes. Said petition shall set forth, by some sufficient description, the whole body or bodies of land proposed to be taken for the purpose or purposes mentioned therein, without regard to its subdivisions in ownership, and pray that such lands be taken for such purpose or purposes according to law. The common council may, before further considering said petition, require the petitioners to present and file with the city clerk a bond executed by the petitioners or other parties, to the city of Onalaska, in the penal sum of five hundred dollars, with sureties to be approved by the common council, conditioned for the payment to said city of all charges which the city may pay or become liable to pay in consequence of such application, in case the jury to be appointed, as hereinafter mentioned, shall by their verdict decide against the necessity of taking the lands mentioned in the petition. Upon presenta-

tion of such petition and bond, if a bond shall be required, the petition shall be referred to a committee to inquire and report at a subsequent meeting as to whether the petitioners are residents and freeholders of the city. If said committee report in writing that ten of the petitioners are residents and freeholders in said city, and the common council shall adopt such report, then said petition shall be valid and effectual, although it may afterwards appear that any of said petitioners were not such residents and freeholders.

SECTION 2. The common council of said city of Onalaska shall have power, with the concurrence of three-fourths of the members elected thereto, to declare, by its resolution, that it is necessary for the public interest to open a public street or alley, or to take land for any public purpose or purposes authorized by this act, which purpose or purposes shall be stated in such resolution, and such resolution shall contain such description of the whole body or bodies of land to be taken as is required in the case of a petition. No such resolution shall be passed by the common council at the same meeting at which it may be offered, but shall lie over to a future meeting thereof. The yeas and nays shall be taken on the passage of such resolution and duly entered in the journal of proceedings of the council. Upon the passage of any such resolution, proceedings may be thereupon instituted for the condemnation of the lands therein mentioned, as in case of petition.

In case it is necessary to open street or alley.

SECTION 3. Within sixty days after the adoption of the report of the committee upon such petition, or after the passage of any such resolution as mentioned in section 2, of this chapter, the city clerk shall publish a notice to the owners or occupants of the lands proposed to be taken, which notice shall contain the same description of the whole body or bodies of land as is set forth in the petition or resolution, as the case may be, or in the several petitions or resolutions, united in the same proceeding, and the purpose or purposes for which it is proposed to take the same, and shall state that at a certain time and place therein named, which time shall not be less than three weeks after the first publication thereof, application will be made to the county judge of La Crosse county, or to the police justice or a justice of the

Clerk shall publish notice.

peace residing in said city, for the appointment of a jury to view the said lands, and to determine whether or not it is necessary to take the same for the purpose or purposes in said notice specified. Such notice shall be published in the official paper of said city, or in a daily newspaper published in the county of La Crosse, at least once in each week for three weeks. A copy of such notice shall be served by the city marshal of said city, or a sheriff or constable, upon every actual occupant of any part of such lands, and upon every person owning or claiming to own or have any interest or estate of record in or to said lands, or any part thereof, who shall appear from the verified application mentioned in the next section hereof, to be a resident of the city of Onalaska, such service to be made in the manner prescribed by law for the service of a summons in an action in the circuit court; and the sworn return of the officer shall be conclusive evidence of the facts stated therein. As to all owners or occupants of such lands proposed to be taken, or any interest therein, or any part thereof, as to all guardians or committees of any such owner or owners, as to all corporations having no officer residing in said city of Onalaska, upon whom service can be made, and as to all persons, corporations and officers whatever, who shall appear, from said verified application or otherwise, to be unknown, or non-residents of the city of Onalaska, or whose place of residence shall appear from said application or otherwise to be unknown, said publication in the official paper of said city, or in a daily newspaper published in said county, shall be sufficient service of such notice upon them and each of them. Personal service, when required, shall in all cases be made at least three days prior to the date of the application fixed in the notice.

Application for
appointment of
jury.

SECTION 4. On or before the time appointed in said notice, there shall be filed with the judge or justice named therein a copy or copies of the resolution or resolutions or petition or petitions, on which the city clerk shall have endorsed or have annexed thereto his certificate that the same is or are a true copy or copies of the original petition or petitions, or resolution or resolutions, referred to in the notice, including in said certificate a certified statement from the records of the com-

mon council of all the proceedings upon the reception, reference, approval and adoption or passage thereof; and the attorney for the city shall present therewith an application signed by him, for the appointment of a jury. Such application shall refer by general description to the lands mentioned in the published notice and shall also describe by some sufficient description each several tract of land, the whole or any part of which is proposed to be taken and appropriated. It shall contain with the description of each several tract or parcel the name of the party or parties in possession of, or who own or have or claim to own or have any estate or interest of record, in or to the same, and the places of residence of each and all such parties, if known; and if any such parties be known to be infants, persons of unsound mind, or under guardianship for any cause, or if any owners or occupants are unknown, or their residence is unknown, or if they are known to be non-residents of the city of Onalaska, such fact shall be stated. Such application shall be verified by the attorney for the city, or some other person who shall make oath that he has investigated and inquired into the matters therein stated, or the same may be verified by the several affidavits of two or more persons, each verifying as to any fact or class of facts therein stated which may have been investigated and inquired into by him. Such verification or verifications shall be sufficient if made substantially in the manner allowed by statute for the verification of a pleading by a party to an action. There shall be attached to such application a plat or plats of the land to be taken, showing as near as may be the several separate tracts, the whole or parts of which are proposed to be taken and condemned, and having marked thereon, as near as may be, the whole amount of land in each such several tracts, and the amount thereof proposed to be taken. At the time and place named in such notice, such judge or justice shall make a list of twenty-four persons, not interested, having the qualifications of jurors in the circuit court of La Crosse county. He shall hear and decide any challenges for cause or favor made to any one, and if such challenge be sustained shall replace the name of the person chal-

lenged with an unobjectionable juror, until the list shall be perfected. Thereupon, under the direction of such magistrate, each party, the city, by its representative on the one side, and the owners of the land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the judge or justice on the other, shall challenge six names, one at a time alternately, the city beginning. To the twelve jurors remaining, such judge or justice shall issue a precept, requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view the lands and decide upon the necessity of taking the same for public use, and for the purposes mentioned in the petition or resolution, and at the same time shall publicly adjourn the proceedings to the time and place so named. Such precept shall be served by the city marshal of said city, or by a constable or sheriff, at least one day before such appointed time, by reading the same to such juror, or by leaving a copy at his usual place of abode, in presence of a member of his family. After striking said jury, and before adjournment as aforesaid, the judge or justice shall then and there make a further list of not less than twenty persons, not interested, having the qualifications of jurors in the circuit court of La Crosse county. He shall hear and decide any challenges for cause or favor made to any person on said last mentioned list; and if such challenge be sustained shall replace the name of the person challenged, with an unobjectionable juror, until said list shall be perfected. If at any time prior to the day named in the precept, the magistrate shall learn from the return of the officer thereto, or otherwise, that any juror or jurors named in the precept will be unable or unwilling to attend, or if any should be excused by him, he may by endorsement on said precept, appoint others in their stead, in all cases taking such substitutes from the persons named in said last mentioned list, and the precept shall be served on the person so substituted as above provided, at any time before the final organization of the jury. If upon the day appointed in said city clerk's notice it should appear that any person a resident of said city of Onalaska, and not present at such hearing, and entitled to personal

service of notice, has not been properly served therewith, whether such person be named in the verified application or not, the judge or justice shall orally adjourn such hearing long enough to allow proper service to be made upon such person. And no further notice of such hearing need be given to any other parties. And if any person so served with notice be a person of unsound mind or an infant having no guardian or committee living in said city, the judge or justice shall on the day fixed for hearing such application, appoint him a guardian for the purpose of such proceeding, who shall act for such ward; for which purpose also the magistrate may orally adjourn such hearing, and notice may be served upon a guardian so appointed at any time before the actual hearing. Such magistrate, upon application to him therefor may appoint such guardian at any time previous to the day fixed in the notice. It shall not be necessary to appoint as such guardian an attorney at law, and the person so appointed shall be subject to the same rules as to giving security as provided by statute in case of guardians ad litem appointed in the circuit court, such security when required, to be approved by the county judge or justice.

SECTION 5. The jurors summoned shall appear at the time and place named. If for any reason a full jury be not present, or any be excused by the magistrate, he shall direct other qualified and disinterested persons to be forthwith summoned as talesmen in their stead, until twelve be obtained, or he may fill the vacancy or vacancies by appointing as jurors any of the persons named in the list of persons possessing the qualifications of jurors made pursuant to the provisions of the preceding section. Persons so summoned as talesmen shall be subject to challenges for cause or favor, which shall be heard and decided by the magistrate, and either of the parties, the city by its representative on the one side, and the owners of land, or their agents present, or if none be present or they disagree, a disinterested person appointed by the judge or justice, on the other, shall have the right to challenge peremptorily three of the persons so summoned as talesmen. The magistrate may adjourn the proceedings from time to time, for such length of time as may

Judge to issue
precept.

be necessary to procure the impaneling of a full jury. When such jury shall have been obtained, the magistrate shall administer to them an oath that they are not interested in the property mentioned in the application, and that they will well and truly inquire into and determine the necessity of taking the said lands, and faithfully discharge their duties as jurors according to law. At any time after said jury are sworn, and before the rendition of the separate unanimous verdict of condemnation, the magistrate may, for cause, excuse or discharge any juror from further service thereon, and in case of any vacancy in the panel of said jury arising from such action of the magistrate or from death or other cause, the magistrate shall by indorsement on the precept appoint a new juror or new jurors to fill such vacancy or vacancies, taking such new juror or jurors from the list of persons possessing the qualifications of jurors theretofore made pursuant to the provisions of section 4, of this chapter, or by summoning qualified and disinterested persons as talesmen subject to challenge as hereinbefore in this section provided. When such vacancy or vacancies shall have been filled the magistrate shall administer to such new member or new members of the jury the oath required in this section; and thereupon the jury shall proceed as if no vacancy had occurred, but if the jury shall have viewed the lands to be taken prior to the occurrence of such vacancy or vacancies, they shall again view said lands in a body and proceed as before.

When hearing
may be
adjourned.

SECTION 6. Under the direction of such magistrate, and accompanied by him, the jury shall view the lands to be taken, and shall then sit before him at his office, or any convenient place to which he shall orally adjourn the proceedings, to hear such competent evidence as shall be produced by any party; and, for such purpose, such magistrate shall possess the same powers as a court in session, with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate, unanimous verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands, or any part thereof for such purposes. In case the jury shall disagree as to the necessity of taking the whole or any part of the lands mentioned in

the application, the magistrate shall make a list of twenty-four jurors from whom to empanel a jury to pass upon the questions left undecided, and shall proceed therewith in all respects as for the empanelling of the first jury, as hereinbefore directed. From the time of the publication of service of the notice mentioned in section 3, of this chapter, all persons served with such notice, in the manner therein prescribed, shall be held to have notice of all subsequent proceedings before such magistrate, in the matters mentioned in such notice, and to be bound thereby. When the jury have agreed upon their verdict or verdicts, the magistrate may orally adjourn the proceedings to such time as may be necessary to reduce the same to form, and to a time when they shall appear before him and sign the same. Any technical error in such verdict may be immediately corrected with the assent of the jury.

Jurors.

SECTION 7. Said verdict shall be signed by said jurors severally and shall state whether in their judgment, it is necessary to take the premises mentioned in the petition or resolution, or any part of the same for the purposes therein specified, and for public use and, if the jury find that it is necessary to take a part only of such premises, they shall describe such part with reasonable certainty, and if they decide that it is necessary to take the whole of said premises, for such purposes they may refer to it as the premises described in the petition, or resolution, as the case may be, and shall file the same with the magistrate.

Verdict to be signed.

SECTION 8. Should the jury decide that it is necessary to take such premises, or any part thereof, the magistrate shall make an order and file the same with the city clerk, confirming the whole of said verdict or any part thereof, and discharging said jury. The city clerk shall thereupon give notice of application by said city to the said magistrate and the time and place when and where the same will be made, and that said city will thereupon move the said magistrate on the verdict of the jury aforesaid, which notice shall briefly state in substance what said verdict is; for the appointment of three disinterested commissioners, residents of said city, to assess the damages and benefits to each piece or parcel of land injured or benefited by the proposed improvement.

In case jury shall decide to take premises.

Such notice shall refer by general description to the land to be taken, and shall be addressed to the parties in possession and the owners thereof, and shall be published in the official paper of said city, or in a daily newspaper published in said county, for three successive weeks, once in each week, preceding the time of such application.

Compensation. SECTION 9. Upon confirmation of said report and proof of publication of aforesaid notice, said magistrate shall make and file with the city clerk an order appointing three disinterested and competent freeholders, residents of the said city of Onalaska, as commissioners to view said premises and ascertain and determine the compensation to be paid to the owners or persons interested in the real estate to be taken and appropriated, and also what lands will be benefited by such taking, and to assess the amount of the damage and benefits to each of the parcels of land affected by such improvement, and to make return of the same to the common council of the said city of Onalaska; said order shall fix the time and place of the first meeting of the commissioners.

Commissioners to subscribe oath. SECTION 10. The commissioners so appointed shall before entering on their duties, take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution of this state, and that they are freeholders resident in said city, and are not in any way interested in the premises to be taken.

In case any commissioner is unable to act. SECTION 11. If for any reason any of the commissioners appointed by said order shall be unable to act, or shall refuse so to do, the said magistrate shall have power to modify said order by the appointment of commissioners in the place of those unable or refusing to act, and may modify his order also as to the time and place when and where such commissioners shall first meet.

Notice to be published in official paper. SECTION 12. Such commissioners, before meeting to perform their duties, shall give one week's notice in the official paper of said city, or in a daily newspaper published in the said county of La Crosse, of the time and place when and where they will first meet to enter on their duties.

Jury shall view the premises and assess damages. SECTION 13. At the time specified in such notice, the commissioners shall view the premises described in the petition and proposed to be taken, and also all premises which will, in their judg-

ment be injured or benefited thereby; they shall hear the allegations of all parties interested and the testimony offered by such parties, which testimony shall be reduced to writing by one of their number; they shall proceed thereupon to make their assessment, and to determine and appraise the value of the several parcels of real estate proposed to be taken, and the damage and also the benefit arising to each parcel of land, in their opinion damaged or benefited by said proposed improvement; a majority of said commissioners, all being present, shall be competent to determine any matter properly before them. The commissioners shall forthwith, after such appraisal is completed by them, make and file with the city clerk a report thereof, to the common council, stating in such report the amount of damage and benefit to each parcel of land damaged or benefited by the proposed improvement, particularly describing the said several parcels of land, and giving the name of the owner or owners of each, if known, and if unknown it shall be so stated. The commissioners and said jury shall be entitled to two dollars per day each as their compensation, to be paid by said city of Onalaska. A majority of the commissioners may adjourn from time to time, giving notice orally and publicly of the time and place of holding the adjourned meeting.

SECTION 14. In making the said award and report, said commissioners shall assess and appraise to each lot or parcel of land, and to the owners thereof respectively, the injury arising to the same from the proposed taking thereof, after making allowance and deduction therefrom for any benefits which said lots and the owners thereof may respectively derive from such improvements, and if the damage to any lot or parcel of land shall be greater than the benefits received, or if the benefits be greater than the damages, in either case the commissioners shall strike a balance and carry the difference forward to another column, so that their report will show what amount is to be received or paid by such owner or owners respectively, or by such lots or parcels of land, respectively, and the difference only in such case between such benefits and damages shall be payable to or by them.

Lots and
parcels of land.

SECTION 15. Whenever there is any building

When land belongs to different persons.

upon the lands proposed to be taken and the lands and buildings thereon belong to different persons, or if any lot or parcel of land be subject to lease, mortgage or other lien, or if there be any estate therein less than a fee, the injury done to the persons or interest, respectively, may be awarded to them, by the commissioners, lest the benefits resulting to them, respectively, from the proposed improvements, or if the damages to any such owner or interest be greater than the benefits the commissioners shall so appraise it.

Cost of improvements.

SECTION 16. Upon the report of the said commissioners, or a majority of them, to the common council, as provided by this chapter, and the confirmation of the same by the common council, the same shall be referred to the mayor, assessor of the city and city clerk, as a board of assessment and apportionment; they shall, as soon as may be, assess and estimate the expenses and costs of the proposed improvements, and shall view the premises and determine whether the whole cost of the proposed improvements shall be chargeable as benefits to the lots and lands subject to special assessment, or whether any part of such cost, and, if so, what part shall be chargeable to the general fund of said city. They shall report to the common council the estimated cost of the proposed improvement, and what proportion thereof, if any, shall be paid by the city; thereupon the common council shall have power, by resolution duly passed by two-thirds of the aldermen elect to said council, to order the proportion of the estimated cost reported by said board, or any greater or less proportion thereof, to be chargeable to and payable by said city, which shall accordingly be done, and thereafter the lots or lands benefited and the owners thereof shall not be assessed for more than the proportion which such benefits bear to the whole estimated cost of such improvement, after deducting that part of the cost of such improvement chargeable to and payable by said city as aforesaid.

Assessment of land chargeable for improvements.

SECTION 17. Upon the report of said board being confirmed, as made by the common council, or modified and adopted by them, the matter shall a second time be referred to said board, who shall make an assessment roll which shall contain a description of the parcels or lots of land chargeable

for the proposed improvement as reported by the commissioners, and the owners of said lots of land if known, and if unknown, that fact shall be stated; and the amount chargeable to said parcels of land respectively, which amount shall be the same as fixed by said commissioners, or less, in proportion to the amount of said improvement determined by the council to be chargeable to the city, which assessment roll shall be forthwith filed with the city clerk, and from the date of such filing the amount therein set down, to any piece or parcel of land, shall be a lien on such piece of land, and chargeable thereon, and shall be collected of said lots in the same manner as special taxes, and such assessment may be carried into the next general tax roll of said city, to be entered in said book in a separate column, and collected with the general taxes.

SECTION 18. Whenever the damages so assessed by the commissioners shall exceed the benefits so assessed, the amount of such excess shall be chargeable to and payable out of the general fund of said city.

When chargeable to the city.

SECTION 19. The said board shall report such assessment to the common council which shall act on the same without unreasonable delay, the council may confirm the same, by resolution, in whole or in part, which resolution shall be published in the proceedings of the council, or the matter may be referred back to said board for correction. In such case the said board shall have the same power, and like proceedings shall be had as when the matter was before said board for the first time.

Shall report assessment to the common council.

SECTION 20. Any person or persons owing or having any interest in any property affected by such assessment or award of damages may, within twenty days after the confirmation of such assessment or award by the common council, appeal therefrom to the circuit court of La Crosse county by filing with the city clerk his notice of appeal, setting forth therein his interest in the premises and the grounds of his appeal together with a bond to the city of Onalaska in the penal sum of five hundred dollars, conditioned for the payment of all costs that shall be adjudged against him on account of such appeal, which bond shall be signed by at least two sufficient sureties, each

Owner of assessed land may appeal to the circuit court.

of whom shall make affidavit endorsed upon such bond, that he is worth five hundred dollars over and above all his debts in property not exempt from execution, and shall be approved by the county judge or a court commissioner. In case of any appeal under the provisions of this section, the city clerk shall send to the clerk of said circuit court a certified copy of the assessment of damages and benefits made and reported by said board as confirmed by the common council, and of all the proceedings of the common council in relation thereto. The appeal shall be tried as ordinary issues of fact are tried in said circuit court; the form of the issue shall be subject to the discretion of the court, and the court shall permit any person or persons interested in such damages or benefits to become parties to such appeal upon their petition setting forth the nature and extent of such interest. If upon such trial the benefits assessed by said board shall be diminished or the damages so assessed shall be increased, then and in either case the appellant shall recover costs on such appeal, otherwise the city shall recover costs. When the jury shall, by their verdict, award damages to the owner of any lot or part of lot, and judgment shall have been rendered upon such verdict, the said city shall pay the amount of said judgment and the costs, if any, recovered therewith, or make provisions for the payment thereof, within one year after the same shall have been rendered; provided, that in case of an appeal from such judgment to the supreme court, the time of the pendency of such appeal shall not form any part of such year.

Appeal shall be the only remedy.

SECTION 21. An appeal to the circuit court as provided in and by the foregoing section, shall be the only remedy for damages caused by the acts or proceedings of the said city or its officers in the matter to which such assessment relates, and no action in law or in equity shall be had or maintained for such injuries, or on account of such acts or proceedings.

Assessment shall be paid before land is taken.

SECTION 22. Only when the damages awarded the owner, by the report of said board as confirmed by the common council, for any property condemned by said city for public use shall have been paid or tendered to such owner or his agent, or when sufficient money for that purpose shall be

provided in the hands of the city treasurer and ready to be paid over to such owner, and ten days' notice thereof shall have been given by the common council in the official paper of said city, or in a daily newspaper published in the county of La Crosse, can the city enter upon and appropriate such property to the use for which the same was condemned and the same shall thereafter be subject so all the laws and ordinances of the city to the same extent as streets and alleys, highways and public grounds heretofore laid out or opened. The damages assessed by the said board or awarded by the verdict of the jury, and judgment rendered thereon in case of appeal, shall be paid, tendered or provided in the hands of the city treasurer, and ready to be paid over to the person or persons entitled thereto, and notice thereof given in the official paper or a daily newspaper, as herein provided, within one year after the rendering of such judgment, or after the confirmation of such assessment by the common council in case no appeal shall have been taken, and if not so paid, or tendered, or provided, in the hands of the city treasurer, all the proceedings in such case shall be void; provided, that such period of one year shall be exclusive of the time any such judgment may be pending in the supreme court on appeal. The benefits assessed and reported by the board from the confirmation of such report by the common council shall be and remain a lien upon the premises so determined by said board to be benefited by the taking and appropriation of the lands to the public use as proposed.

SECTION 23. If there should be any building standing, wholly or in part, upon the land to be taken, the commissioners, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; secondly, the value of such building to him to remove

Commissioners
to estimate val-
ue of building.

SECTION 24. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all persons interested shall be given by publication in a newspaper pub-

Notice to be
given owner.

lished in said city, or in a daily newspaper published in the county of La Crosse, three successive weeks; such notice shall specify the building and the award of the commissioners. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the commissioners and allow such building to be taken, with the land appropriated, or of their intention to remove such building at the value set thereon by the commissioners to remove; if the owner shall remove such building, he shall have such time for this purpose as the common council may allow. If the owner refuse to take the building at the value to remove, or fail to give notice of his election aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale; the proceeds shall be paid to the owner or deposited to its use.

Covenants and agreements to cease.

SECTION 25. When the whole of any lot or tract of land or other premises under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or agreements between landlord and tenant or any other contracting parties touching the same or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged. When only part of a lot or tract of land or other premises so under lease, or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements touching the same upon confirmation of such report shall be absolutely discharged, as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, consideration and payments reserved, payable and to be paid for or in respect to the same shall be proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more shall be paid or recoverable for or in respect to the same.

When owner is an infant or incompetent person.

SECTION 26. When any known owner of lands or tenements affected by any proceedings under this act shall be an infant or labor under legal disability, the judge of the county court of La Crosse county, or in his absence, the judge of any court of record in said county, may, upon the applica-

tion of the attorney for the city, or such party or his next friend, appoint a guardian for such party, and in case of such appointment all notices required by this act shall be served on such guardian.

SECTION 27. Whenever any public ground, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Survey of public ground to be filed.

SECTION 28. All the proceedings of the common council heretofore had in laying out streets and alleys are hereby confirmed, and all the streets and alleys heretofore laid out and opened by the common council, except such as have been legally vacated, are hereby declared public highways.

Proceedings confirmed.

SECTION 29. All the foregoing directions given in this chapter shall be deemed only directory, and no error, irregularity or informality in any of the proceedings under the provisions of this chapter of this act not affecting substantial justice, shall in any way affect the validity of the proceedings.

This chapter only directory.

SECTION 30. All the provisions of this act relating to the taking of land by said city for public purposes shall apply to lands required for the sites of school buildings and for the sites of public markets, and for premises attached to such buildings, or required for the use of such public markets.

Relating to taking of land.

SECTION 31. The common council shall have power, and are hereby authorized to vacate, in whole or in part, such highways, streets, alleys and public walks within the corporate limits of the city as in their opinion the public interest may require to be vacated, or such as in the opinion of the council are of no public utility.

Common council may vacate highways.

SECTION 32. In all cases where lands in the city shall hereafter be subdivided into lots and blocks, or where streets and alleys or public grounds shall be donated or granted to the public, the owner or owners thereof shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with streets and alleys through the lots and blocks in said city adjacent to the lots or blocks so platted, and shall submit such maps or plats thereof to the common council for their approval, and, if

Streets and alleys to correspond in width.

such plat or map shall be approved by the common council it shall be lawful for the party or parties making such plat to record the same, and the evidence of such approval in the manner prescribed in the revised statutes of the state concerning town plats, but except such plat shall be approved by said council, by resolution, and a copy of such resolution, duly certified by the city clerk, shall be annexed to said plat, it shall not be lawful for the register of deeds of La Crosse county to receive such plat or map for record, or to record the same, and the same shall have no validity.

When property shall be condemned damages to be paid.

SECTION 33. Whenever any property shall be condemned for any of the purposes mentioned in this act, and after the assessment of benefits and damages shall have been made as herein provided, and confirmed by the common council, the common council shall have the power to advance by appropriation from any fund of the city, or moneys of the city not otherwise appropriated, the amount required to pay the damages so assessed and confirmed, for the purpose of paying or tendering the same to the owner or owners of the property so taken, as provided by this chapter. And in case such advance shall have been made, the special tax collected from the property benefited under such assessment shall be paid into the general fund of the city.

Amended.

SECTION 4. Said chapter 49, of the laws of 1887, is hereby amended by adding thereto a new chapter as follows:

CHAPTER VII.

PUBLIC SCHOOLS.

Public schools.

SECTION 1. At the regular meeting of the common council in June, 1889, said council shall elect a board of education for the city of Onalaska, which shall consist of one school commissioner from each ward, and two from the city at large. The commissioners first elected as aforesaid shall enter upon the duties of their office on the first Monday of July after their election, and shall continue in office as follows: The commissioner from the first ward, one year; the second ward, two

years; the third ward, three years; and from the city at large, four years, and until their successors are elected and qualified; and thereafter the term of office of all commissioners elected shall commence on the first Monday in July after their election; and at the regular meeting of the council in June of each year, there shall be elected a school commissioner to succeed any member of the board of education whose term of office shall expire on the succeeding first Monday of July, who shall hold his office for the term of four years, and until his successor is elected and qualified.

SECTION 2. The school commissioners elected under section 1, of this chapter, shall form the board of education of the city of Onalaska, and a majority of said board shall constitute a quorum for the transaction of business, and in case of a vacancy, by resignation or otherwise, the common council shall fill such vacancy at the first regular meeting of the council after the vacancy occurs.

School commissioners shall be the board of education.

SECTION 3. All the district of country within the corporate limits of the city of Onalaska, shall be known and designated as school district number one of the city of Onalaska, for all purposes, and shall be the legal successor of the present district within said corporate limits, and shall be charged with all indebtedness, and vested with all property, school-houses, sites, furniture, apparatus, and appurtenances, formerly belonging to school district number one, of the town of Onalaska, and the title of said property shall be vested in the city of Onalaska, and the said city shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or device, for the use of the schools of said city by its proper style, or any other designation, or to any other person or persons, or body, for the use of said schools.

School district.

SECTION 4. The board of education shall at its regular meeting in July of each year, elect one of its members president, who shall preside at all meetings of the board and preserve order and decorum thereat, and decide all questions of order, subject to the appeal of the board. He shall sign all orders drawn by the secretary for the payment of teachers' and janitors' wages, and other necessary expenses of the board of education, and in suits

President.

brought against the school district, he shall appear in behalf of the district, unless some other provision is made by the board of education. He shall declare all votes on questions coming before the board, and on all questions appropriating money, or adoption of text-books, the vote shall be taken by ayes and noes, and recorded; on any other question the ayes and noes shall be called when any member shall request it. In the absence of the president the board shall elect a president pro tempore. Said board shall at the same meeting elect one of its members secretary, who shall attend the meetings of the board and shall perform all the duties required of the clerks of school districts, under the general laws, and such other duties as may be required by the board. In the absence of the secretary the board shall elect a secretary pro tempore. The secretary shall receive such compensation as the common council may prescribe.

Meetings.

SECTION 5. The board of education shall hold at least four regular meetings in each year, which shall be held on the first Monday of January, April, July and October, and they may hold special meetings at such other times as they may deem necessary. Such special meetings shall be called by the president at the request of a majority of the board.

Powers and duties.

SECTION 6. The said board of education shall have power and it shall be their duty:

Schools.

First. To establish and organize such and so many schools in said city, or the several wards thereof, as they may deem necessary and expedient, and to alter and discontinue the same.

Custody of school-houses.

Second. To have the custody and safe-keeping of the school-houses and out-houses, books, furniture and appendages, and to see that the ordinances and the regulations of the common council thereto are observed.

Teachers.

Third. To contract with and employ in behalf of the city, all teachers, and all such contracts shall be made in duplicate, and shall be signed by the teacher and by the board of education in behalf of the city, or by some member of said board designated for that purpose, by resolution of said board and one copy shall be filed with the secretary of the board, and the other copy delivered to the teacher signing the same.

Fourth. To arrange and determine the terms and vacations in all public schools in the city; to have in all respects the superintendence, supervision and management of all public schools of said city and from time to time adopt, alter, modify and repeal, as it may deem expedient, rules and regulations for their organization, government and instruction, and for their good order, prosperity and utility.

Superintendence of the city schools.

Fifth. Whenever in the opinion of said board it may be advisable to sell any school-house or school-house site or any other school-house property, now or hereafter belonging to said city, to report the same to the council.

Board to report when school buildings are for sale.

Sixth. To make contracts for all fuel, stationery, books and other articles of furniture required for the use of the schools; to make all necessary repairs on school-houses, to make contracts for all incidentals required for carrying on the schools, employing janitors, etc., and such contracts shall when executed, be paid by orders drawn on the city treasurer, payable out of the school fund, which order shall be signed by the president of the board of education, and countersigned by the secretary of the board.

Contract for fuel, etc.

Seventh. The board of education shall, on the first Monday in October in each year, submit a statement to the mayor and common council, of all the money, disposed of by them during the year, and for what purpose the same was disposed; and they shall at the same time submit for the consideration of the council, a statement of the estimates required for carrying on the schools for the coming year, specifying the amounts required for teachers' wages and other items separately and specifically. Nothing in this section contained shall prevent the council from taking into consideration the amounts to be received from the state and county school tax during the ensuing year.

Board to submit a statement to the mayor and common council.

SECTION 7. The common council of the city of Onalaska shall have power to annually levy and collect a school tax to meet the expense of erecting and repairing school-houses, purchasing or hiring sites for school-houses and supporting and maintaining schools.

School tax.

SECTION 8. No member of the board of education shall have any interest, direct or indirect in

No member of the board to be interested in contract.

any contract made by said board, and every contract so made in which any member of said board shall have any interest shall be absolutely void.

Commissioners to receive no compensation.

SECTION 9. The commissioners elected under this act shall receive no compensation for their services, unless the common council by ordinance or resolution otherwise provide.

City treasurer to receive school money.

SECTION 10. The treasurer of the city of Onalaska is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer of La Crosse county all moneys appropriated for the use of the schools in said city, and all other moneys in possession of said county treasurer at any time raised, appropriated or intended for the use and benefit of schools in said city, and the said county treasurer is hereby directed and required on demand of the said treasurer, to pay over to him the said moneys without delay or set-off, taking his receipt as such treasurer thereof and all such moneys shall be placed to the credit of the school fund of said city.

City treasurer to receive school money.

SECTION 11. The city treasurer of the city of Onalaska is hereby authorized to demand of and receive from the treasurer of the school district within the described limits of the city of Onalaska, such money as shall be in his hands on the thirtieth day of June A. D. 1889, belonging to said school district and give his receipt for the same to said district treasurer, said receipt when given shall release said school district treasurer and his bondsmen from all liability for such money. But before the money is paid over to the city treasurer a special school meeting of the district within the city of Onalaska shall be held to settle with the district treasurer, said meeting to be held not later than the last Saturday in June, 1889, of which due notice shall be given in the manner now by law required for special school meetings.

Duties of assessor.

SECTION 5. Section 16, of chapter 5, of said chapter 49, is hereby amended so as to read as follows: Section 16. The assessor shall assess all the property in the city of Onalaska, and shall perform all the duties of assessor in the same manner as required by town assessors, and shall receive the same compensation. The assessment and tax rolls shall be made out and returned, and the valuation equalized, in the same manner as provided for towns, so far as practicable. The

board of equalization shall consist of the mayor, the senior alderman of each ward, the assessor and city clerk.

SECTION 6. Chapter 6, of said chapter 49, of the laws of 1887, is hereby repealed. Repealed.

SECTION 7. Section 14, of chapter 3, of said chapter 49, is hereby amended by adding thereto at the end thereof, the following: In case of an appeal by the defendant from a judgment inflicting a penalty for the violation of any city ordinance, the cause shall be tried, determined and enforced in the same manner as though the defendant was charged with a misdemeanor at common law, in a criminal action or proceeding wherein the state was plaintiff; provided, that in case of conviction or the affirmance of the judgment appealed from, the penalty shall not exceed that provided by the charter and ordinances of the city. Relating to appeal.

SECTION 8. This act shall take effect and be in force from and after its passage and publication. Approved March 21, 1889.

[No. 160, S.]

[Published March 26, 1889.]

CHAPTER 135.

AN ACT to amend the charter of the city of Beaver Dam, being chapter 83, of the private and local laws of 1885, and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 83 aforesaid, of said charter of the city of Beaver Dam is hereby amended by striking out the words, "one assessor" in section 1, of chapter 2, of the said charter of the city of Beaver Dam, and also by striking out the word, "assessors" whenever it occurs in said chapter 83, and in lieu thereof insert the word, assessor. Amendment to ch. 83, laws of 1885.

SECTION 2. On or before the first Tuesday in May in each year, the mayor shall appoint a suit- Assessor.