

[No. 130, A.]

[Published February 27, 1878.]

CHAPTER 32.

AN ACT to empower the common council of the city of Beloit to provide security against loss by fire in said city.

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

Authority of council.

SECTION 1. The common council of the city of Beloit is hereby authorized and empowered to lay water pipes through any or all of the public streets, alleys and grounds of said city, and may construct fire hydrants at such places in said city as the common council may determine, and the said common council may purchase or lease for said city, water power, water wheels, force pumps, hose, and such other machinery or materials as may be necessary or convenient, from time to time, for the purposes of this act.

Plans and estimates to be filed.

SECTION 2. Whenever the common council shall determine to lay any water pipe, it shall direct the city engineer, or, if there be no city engineer, or, if from any cause the city engineer is unable to act, some competent person, to make a plan of the work to be done, with an estimate of the cost of the work, and of the water pipes and fire hydrants connected therewith, and the said plan and estimate of the cost shall be filed with the city clerk.

Expense—how paid.

SECTION 3. The necessary cost and expense of all water pipe and fire hydrants connected therewith, and of properly placing the same in condition for use, shall be paid by the owners of the property benefited by such improvement; all other costs and expenses incurred by the common council under this act, shall be paid out of the general fund in the city treasury; and the common council of said city is hereby authorized to levy, by tax upon the taxable property of said city, from time to time, such sum as shall be sufficient to pay such cost and expense, in addition to the taxes now authorized by law to be levied in said city; *provided*, that there shall not be levied or collected by tax upon the property of the whole city in any one year, for the purposes specified in this act, a sum exceeding one-fifth of one per cent. upon the taxable property in said city, as the same appears from the corrected assessment roll in said city.

Proviso.

Damages and benefits—how determined.

SECTION 4. After the plan and estimate mentioned in section two of this act shall have been filed with the

city clerk, the damages and benefits by reason thereof to all parties interested, shall be determined by a jury to be appointed and selected by order of the common council, as is hereinafter provided.

SECTION 5. Whenever the common council shall order a jury for the purposes specified in this act, the city clerk shall give notice of the time and place of striking said jury, by publishing the same in the city newspaper, not less than ten days before the time of striking of such jury; and at the time and place designated in said notice, the city clerk shall write out a list of the names of eighteen freeholders of the city, neither of whom shall be the owner of any lot or land abutting upon the streets or alley where such water pipe is to be laid, from which list the said clerk and the person or persons, who are the owners or occupants of the said abutting lots or land, or some part or portion thereof, or some one or more of said persons shall alternately strike names from said list until the said clerk shall have stricken out of said list six names and the other party or parties shall have stricken six names from said list, and the remaining six persons named on said list shall constitute a jury, whose duty it shall be to assess the damages and benefits to all parties interested; *provided*, that in case no person appear, to strike a jury, or appearing, refuse so to strike, then the city clerk shall strike out twelve names from said list and the remaining six shall constitute the said jury.

Notice to be given.

SECTION 6. In case any member of said jury, drawn and stricken in the manner provided in the last section, shall refuse or neglect to serve, or shall be or become incompetent to act at any time before the first report of said jury, of their acts to the common council, the mayor, or the acting mayor, and the city clerk may, without notice, substitute some other competent person or persons in the place of the person or persons neglecting or refusing to act upon such jury, or who may be incompetent to serve upon such jury.

Refusal or neglect of jurymen to act; how obviated.

SECTION 7. After the jury is selected in the manner hereinbefore provided, it shall view the premises where it is proposed to lay said water pipe, and in its discretion it may receive any evidence offered by parties interested, and, if necessary, may adjourn from time to time.

Jury to view premises.

SECTION 8. The said jury shall determine and assess the damages to any lands where the said water pipe is to be laid, and the injury to the owner by reason of laying of said pipe, and thereafter maintaining and

Damages to be determined.

using the same, which sum shall be awarded to the owner as damages.

Damages and costs to be assessed upon property benefited.

SECTION 9. Having ascertained the damages and the expenses of laying such water pipes, with fire hydrants attached, with the cost of the proceedings, the jury shall thereupon apportion and assess the same (together with the costs of the proceedings), upon the real estate in said city by the jury deemed benefited, in proportion to the benefits resulting thereto from the laying of said water pipe, as nearly as may be, and they shall describe the real estate upon which their assessment may be made. When completed, the jury shall sign the same, and it shall return the same to the city clerk within thirty days from the time of their appointment.

Assessment may be modified.

SECTION 10. The city clerk shall give notice, of not less than ten days in the city paper, that the report of said jury has been filed with him, and that on a day to be specified in said notice, the same will be considered by the common council. Objections may be heard by the common council, and the hearing may be adjourned by the council from time to time, and the council may confirm the said report and assessment, and it may alter or modify the same and confirm the same as so altered or modified by it. The council may also, in its discretion, refer the matter back to the same jury or to another jury, to be selected in the manner hereinbefore provided.

Tax to be a lien upon real estate

Section 11. All benefits assessed upon any real estate, pursuant to the provisions of this act, shall be a lien upon the real estate upon which the same is so assessed; and the owner of any real estate upon which any sum is assessed as benefits shall pay the amount of this assessment respectively to the city treasurer, within thirty days after the confirmation of the same by the common council, and in case of the neglect or failure of any person or party to pay any such assessment as provided in this act, the amount of such assessment shall be placed by the city clerk in the next tax roll against the real estate upon which it was assessed, with interest at ten per cent. from the confirmation of the assessment to the date of the treasurer's warrant annexed to such tax list; and the same shall be collected in the same manner as other taxes against such real estate upon such tax list, and the moneys when collected shall be paid, by the officers receiving the same, to the treasurer of the city of Beloit.

SECTION 12. The city clerk shall forthwith, upon the confirmation of any assessment of the jury, deliver to the city treasurer the names of the persons against whom such assessments have been made, and the amount of such assessment respectively, and after the expiration of thirty days from the confirmation of the assessment by the common council, the said treasurer shall return the said list so furnished him by the clerk, with the amount received by him thereon, and the names of the persons by whom the same was paid, and the sums paid by such persons respectively, and the clerk shall lay the same before the common council and charge the treasurer with the amount so collected by him.

Tax to be collected by city treasurer.

SECTION 13. It shall be competent for the common council after it has determined to lay water pipe, to compromise with any person or party claiming damage, as to the amount of damages to be paid to such person or party, and in such case it shall only be necessary for the jury to assess the benefits as to the lands and premises of such person or party as is hereinbefore provided.

Council may compromise.

SECTION 14. Any person interested in any real estate affected by any assessment of damages or of benefits, pursuant to the provisions of this act, may appeal from the final order of the common council confirming such assessment, to the circuit court for Rock county, within twenty days after such order of confirmation, by giving notice of such appeal to the mayor or city clerk of said city, and by giving bond, with sufficient securities, to the city in a penalty of not less than two hundred dollars, to be approved by the mayor or city clerk, conditioned to pay all costs of such appeal in case the court upon such appeal shall not increase the amount of compensation awarded to the appellant as damages, or decrease the amount assessed upon his premises as benefits, as the case may be. Either party upon the trial of such appeal in the circuit court shall be entitled to a jury.

Appeal may be taken.

SECTION 15. This act shall take effect and be in force from and after its passage and publication.

Approved February 21, 1878.