

CHAPTER 10.

AN ACT TO AMEND THE CHARTER OF THE CITY OF STILLWATER.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That the act entitled "An act to amend and consolidate the charter of the city of Stillwater," approved March seventh (7th), one thousand eight hundred and eighty-one (1881), the same being chapter ninety-two (92); of the special laws of one thousand eight hundred and eighty-one (1881), be further amended by striking out, adding to and altering the same in the manner following, to-wit:

SEC. 2. By so altering section three (3), of chapter ten (10) thereof that the same shall read as follows:

Sec. 3. Designating of public grounds and appointment of commissioners and their award. Whenever the city council may determine upon the lands and other property to be taken and appropriated, it shall designate the same as nearly as may be convenient, and shall cause such plat or survey, as may be necessary to show or explain the same, to be made and filed therewith with the city clerk, and the city council shall then, or afterwards, appoint three (3) commissioners, who shall be freeholders of said city, and no two (2) of whom shall reside in the same ward, to view the lands, water power or other premises to be taken and appropriated, and ascertain and award the amount of damages or compensation to be paid to the owners of the property so to be taken and appropriated. Two (2) or more of such commissioners shall constitute a quorum and be competent to do any act required of such commissioners; they shall be notified by the city clerk by notice to be served on them severally, either personally or through the mail, to attend at his office on or before a day fixed by him, not less than two (2) days after the service or mailing of such notice, to qualify and enter upon their duties; and if any commissioner shall refuse or neglect to attend as aforesaid, he shall forfeit and pay to the city of Stillwater the sum of fifty (50) dollars, to be recovered to the use of said city in a civil action in the municipal court; and in case a quorum of such commissioners shall not attend at the time and place designated in said notice, the mayor or acting mayor of said city may, in writing, appoint one (1) or more commissioners in the stead of any such absentees; the commissioners shall be sworn by the clerk or any officer authorized to administer oaths, to discharge their duties as such commissioners in the matter with fidelity and impartiality, and make due return of their action to the city council. They shall give notice by two (2) publications in the official papers of said city that they will, on a day designated in such notice, which shall be at least ten (10) days after the first (1st) publication of such notice, meet at a place designated in said notice, on or near the premises proposed to be taken and appropriated, and view the property proposed to be taken and appropriated and ascertain and award therefor compensation and damages, and that they will there and then

hear such allegation and proofs as interested persons may offer. Such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and after having viewed the premises may, for the hearing of evidence and preparation of their award, adjourn or go to any other convenient place in said city, and such commissioners shall make a true and impartial appraisal and award of the compensation and damage to be paid to each person whose property is to be taken or appropriated, and report the same to the city council within sixty (60) days after they shall have qualified as provided in this section, and such award shall lie over until the next regular meeting of the council, which shall occur at least one (1) week after the reception of such award, at which or at any subsequent time the city council may act on such award and hear any objection made thereto, or may refer the matter to a committee to hear such objections and report thereon. The council may confirm such award or annul the same, or send the same back to the same commissioners for further consideration, and such commissioners may in such case, again on giving notice, to be published once in the official paper of said city, meet at a time and place to be designated in said notice, which shall be at least two (2) days after the publication of such notice, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time and correct any mistakes in such award, and revise and alter the same as they may deem just, and again report such award to the city council within sixty (60) days after the same shall have been so sent back to them, and the city council may confirm or annul the same. When any such award shall be confirmed by the city council the same shall be final and conclusive upon all parties interested, except as herein-after provided.

SEC. 3. That section four (4), of said chapter ten (10), be and the same is hereby repealed.

SEC. 4. By so altering section six (6) of chapter ten (10) thereof that the same shall read as follows:

Sec. 6. Street improvements—Proceedings. Whenever the city council shall vote to lay out, grade or open any new street or alley, or to straighten, widen, grade or extend any that now or may hereafter exist, or to do any work, or make any improvements upon any street which shall not have been previously graded, which shall make it necessary to take, injure or interfere with private property, it shall determine and designate in a general way, as nearly as may be convenient, the character and extent of the proposed improvement, and thereupon it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement, showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement, and his estimate of the cost of such improvement, and the city council may cause such plat and survey to be modified, amended or changed as it may deem proper, and shall estimate and fix upon the cost of making such improvement. When such plat and survey shall be finally

adopted by the city council, it shall be filed with the city clerk, and it shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council; said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to or affected by such improvement. The city council shall then or afterwards appoint three (3) freeholders of said city, no two (2) of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expense of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation. Two (2) or more of such commissioners shall constitute a quorum, and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number be filled in the same manner, and they shall take the same oath and be subject to the same penalty for refusal or neglect to attend, to be collected in the same way as is provided in the case of commissioners appointed under section three (3) of this chapter; they shall give notice by two (2) publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten (10) days after the first (1st) publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purpose of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefitted by such improvement, and assess thereon in proportion to benefits the amount necessary to pay such compensation and damage and the cost of making the improvement, and they will then and there hear such allegations and proofs as interested persons may offer. And such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may [have] the aid and advice of the city engineer and of any other officer of the city. After viewing the premises, and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisement and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement shall be benefitted by such improvement, then the commissioners in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner, in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits. The said commissioners shall then assess the amount of such compensation and damages so awarded, together with the expense and cost of making the improve-

ments, upon the land and property benefited by such proposed improvements, and in proportion to such benefits, but in no case shall the amount of said assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council within sixty (60) days after they shall have qualified as provided by this chapter, their appraisal and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report and shall state the amount of such excess; said commissioners shall also report to the city council within sixty (60) days after they shall have qualified as provided by this chapter an assessment list containing their assessment of such compensation, damages and cost, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed, of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed. Such report shall lie over until the next regular meeting of the council; which shall occur at least one week after the reception thereof, at which time, or at any meeting, the city council may act upon such report and hear any complaint touching such award or assessment, or it may refer the matter to a committee of the council to hear such complaints and report thereon. The council may confirm such award and assessment, or either, or annul the same, or send the same back to the same commissioners for further consideration; and the commissioners may in such case again, upon giving notice published once in the official paper of said city, meet at a time and place to be designated in said notice, which time shall be at least two (2) weeks after the publication of such notice, meet and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistake in such award and assessment and alter and revise the same as they shall deem just; and again report the same to the city council within sixty (60) days after the same shall have been so sent back to them, and the city council may thereupon confirm or annul the same. Whenever the city council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as is hereinafter provided, and the city council shall proceed, at the same or subsequent meeting, to levy such assessment upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same, which may be in the following form, or in any other form the council may adopt:

The city council of the city of Stillwater doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of, and injury to, private property, and estimated cost and improvement in and about the.....

.....as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment, and in proportion to benefits from such improvements to accrue to the parcels, and not exceeding the benefits to the parcels so assessed.

NAME OF OWNER, IF KNOWN.	DESCRIPTION OF LAND.	LOT.	BLOCK.	AMOUNT.	
				DOLLS.	CTS.

Done at meeting of city council this.....day of
.....A. D. 188....

Attest:

.....
City Clerk.

.....
President of Council.

SEC. 5. By so altering section seven (7) of chapter ten (10) thereof that the same shall read as follows:

Sec. 7. Appeals. Any person, whose property is proposed to be taken, interfered with or assessed for benefits under any of the provisions of this chapter, and who deems that there is any irregularity in the proceedings of the council or action of the commissioners, by reason of which the award of the commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment for benefits, to any property affected by such proceedings, may, at any time before such award or assessment shall be confirmed by the city council, file with the city clerk, in writing, his objection to such confirmation, setting forth therein, specifically, the particular irregularities complained of, or that he is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment, for benefits to any property affected by such proceeding, and containing a description of the property affected by such proceedings, and if, notwithstanding such objections, the city council shall confirm the award or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county of Washington, at any time within ten (10) days after such order. Such appeal shall be made by serving a written notice of such appeal upon the city clerk of said city, which shall specify the property of the appellant affected by such award, and re-

fer to the objections filed as aforesaid, and by also delivering to the city clerk a bond to the city of Stillwater, executed by the appellant or by someone in his behalf, with two (2) sureties who shall justify in the penal sum of fifty (50) dollars, conditioned to pay all costs that may be awarded against the appellant. Thereupon the city clerk shall make out and transmit to the clerk of said district court a copy of the award of said commissioners, as confirmed by the city council, and of the order of the council confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said city clerk to be true copies, within ten (10) days after the taking of such appeal; but if more than one (1) appeal be taken from any award, it shall not be necessary that the clerk, in appeals subsequent to the first (1st), shall send up anything except a certified copy of the appellant's objection. There shall be no pleading on such appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his said written objections, that as to him the award or assessment of the commissioners ought not to stand, and whether said commissioners had jurisdiction to take action in the premises. The case may be brought on for hearing, on eight (8) days notice, at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings in so far only as the same affects the property of the appellant proposed to be taken, damaged or assessed for benefits, and described in said written objection. From such determination no appeal nor writ of error shall lie. In case the amount of damages awarded or assessment made for benefits is complained of by such appellant, the court shall, if the proceedings shall be confirmed in other respects, upon such confirmation, appoint three (3) disinterested freeholders, residents of said city, commissioners to reappraise such damages or benefits. The parties to such appeal shall be heard by said court upon the appointment of such, and the court shall fix the time and place of the meeting of such commissioners. They shall be sworn to the faithful discharge of their duties as such commissioners, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of such damages or assessments. Such commissioners shall be governed by the same provisions in respect to the method of arriving at the amount of damages, and the offset thereto, of benefits to other property of the same owners, and in all other material respects, as are in this chapter made for the government of commissioners appointed by said city council. They shall, after such hearing and view of the premises, make report to said court of their appraisal of damages or assessment of benefits in respect to such appellant. The award or assessment of such commissioners shall be final, unless set aside by the court for good cause shown. In case such report is set aside, the court may, in its discretion, recommit the same to the same commissioners, or appoint a new board, as it shall deem best; but no appeal or writ of error shall be allowed from any order of the court in the premises. Said court shall allow a reasonable compensation to such commissioners for their services, and make such award of costs on such appeal, including the compensations of such commissioners, as it shall deem just in the premises. In case the court shall be of opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such

appellant. But said city council shall have the right, at any time within ten (10) days after notice of such award, to abandon the proceedings for such improvement, if it shall consider the public good to require such abandonment. Such commissioners shall perfect and complete their award and make the same to the court with all convenient speed, and vacancies occurring in said board of commissioners shall be filled by the court or judge thereof, and no person shall decline when appointed as hereinbefore specified to serve on said commission, under a penalty of fifty (50) dollars, to be collected in a civil action. All commissioners appointed by the city council under the provisions of this chapter shall receive compensation at the rate of three (3) dollars per day, to be paid by the said city.

SEC. 6. By so altering section thirteen (13) of chapter eleven (11) thereof that the same shall read as follows:

Sec. 13. Official papers; how designated. The city council shall at its first meeting in April of each year, or as soon thereafter as may be, cause the city clerk to advertise in the official paper of the city, for one week, for sealed proposals for publishing in some public newspaper, which shall have been printed, published and of general circulation in said city at least six (6) months prior to the making of such proposals, the ordinances, official proceedings of the council and other matters required in the charter or the ordinances and resolutions of the city to be published in a public newspaper, such proposals to state the price per inch for the first insertion and for each additional insertion of all matter so to be published, said proposals to be marked "Proposals for advertising," and addressed to the city council, which proposals shall be opened at the next meeting of the council, and the contract for such publishing awarded to such newspaper bidding the lowest therefor, which paper shall be declared the official paper of the city; *Provided*, That in determining which is the lowest bidder of the newspapers conforming thereto regard may be had to the character and value thereof as a medium for advertising and for placing before the taxpayers of said city, and all persons interested therein, the matters herein provided to be advertised; and for the purpose of determining such character and value the city council may require of the parties making such proposals such showing of the extent and character of the circulation of such newspaper and other facts connected therewith as it may deem expedient, and in case any two bids are the same the city council may by vote select one of such papers; *Provided, further*, That the council may reject all such proposals and adopt such other method of publishing such matter as it may in its discretion determine. *Provided, further*, That the proprietor or proprietors of such paper shall enter into a written contract for the performance of the duties required of such proprietor or publisher, and give bond in the sum of five hundred (500) dollars, with two satisfactory sureties, to be approved by the council, conditioned for the faithful performance of such contract. The newspaper so designated shall be and remain the official paper of said city, and the contract and bond aforesaid shall remain in force for the term designated, and until the city council shall designate another paper as the official paper of the city.

SEC. 7. That section twenty-nine (29) of chapter twelve (12) thereof be and the same is hereby repealed.

Approved March 9, 1885.