

SEC. 52. *Manner of Paying Salary.*—It shall be the duty of the clerk of said court, at the end of each month, to make out and certify an order for each of the officers of said court for the respective amounts due each for the preceding month, and when so drawn and signed by the clerk of said court the same shall be countersigned by the mayor or acting mayor of said city and the comptroller, when the same may be presented to the city treasurer, who shall pay the same out of any funds belonging to said city without any other act necessary to be done in the premises, and the city treasurer may hold said order as his voucher to be used in settlement with the common council.

SEC. 53. *Inconsistent Acts Repealed.*—All acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 54. *When to Take Effect.*—This act shall take effect and be in force from and after its passage.

Approved April 13, 1891.

## CHAPTER 54.

[H. F. No. 717.]

AN ACT TO AMEND "AN ACT PROVIDING FOR A SYSTEM OF PUBLIC GROUNDS FOR THE CITY OF DULUTH," APPROVED MARCH 25, A. D. 1889.

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

SECTION 1. That chapter four hundred and one (401) of the Special Laws of the year one thousand eight hundred and eighty-nine (1889), said chapter being an act entitled "An act providing for a system of public grounds for the city of Duluth," approved March 25, 1889, is hereby amended by substituting for sections one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22) and twenty-three (23), respectively, the following, to-wit:

Sec. 1. There is hereby established a department of the government of the city of Duluth, named the board of park commissioners of the city of Duluth, consisting of five (5) commissioners, designated and appointed as follows, to-wit: The mayor of said city, *ex officio*, shall be one of said commissioners and during the month of April in the year eighteen hundred and ninety-one (1891) the said mayor, with the advice and consent of the judges of the district court for the county of St. Louis residing in said city, shall appoint four (4) citizens of said city to be the remaining four (4) commissioners; and annually thereafter during the month of January, in like manner, one member of the board, for the term of four (4) years from the first (1st) day of February following, and until his successor is appointed and duly qualified for his official duty, shall be appointed. And in the event of vacancy at any time existing, the said mayor shall, in like manner, appoint to fill such vacancy for the remainder of the unexpired term of office vacated.

The members of the board shall receive no compensation for their services, but may be reimbursed for all expenses incurred in the performance of their official duties.

No member of the board shall be pecuniarily interested in any contract made nor in any property purchased by or under the authority of the board; *Provided*, that in the event of such interest in any lot, tract or parcel of land, which may be designated for the purposes of this act, the person or persons so interested, shall be entitled to receive compensation therefor as prescribed herein, but shall not act officially with respect thereto, nor in any matter for determination by the board in which such interest may be involved.

Sec. 2. The members of the board, except the mayor of the city, before entering upon the duties of office, shall each make official oath or affirmation in writing and give bond to the city of Duluth in the penal sum of five thousand (5,000) dollars each, with two (2) or more sureties to be approved by one of the judges of said district court, conditioned for the faithful discharge of their official duties; and said oath or affirmation, together with the said bond, shall be filed with the city clerk.

In the event of the failure of any person so as aforesaid appointed to qualify as aforesaid for official duty within thirty (30) days after such appointment, the place of such person in the board shall thereby be vacated.

As soon as convenient after qualifying as aforesaid, said commissioners, so as aforesaid for the institution of said board appointed, shall decide by lot the duration of their respective terms of office, said term being from one (1) to four (4) years respectively from the first (1st) day of February, A. D. one thousand eight hundred and ninety-one (1891), and until their successors are respectively appointed and have duly qualified.

Sec. 3. A majority of the members shall constitute a quorum; but no action of the board designating, purchasing or leasing lands or directing the issuing of bonds of the city of Duluth shall be valid unless approved by four (4) members thereof.

The board shall have an office convenient for public access, provided and furnished by the common council of said city; shall adopt a seal for the authentication of its official action; and shall have authority in behalf and in the name of the city of Duluth to make, perform and enforce contracts to carry out the purposes of this act; and annually, in the month of February, shall report to the common council of said city, its proceedings during the year immediately preceding, including in such report a statement in detail of all receipts and expenditures.

Sec. 4. The officers of the board shall be a president and vice president, who shall be members thereof, and a secretary, to be chosen by the members of the board immediately upon the ascertainment of their respective terms of office.

The president shall preside at all meetings of the board and execute, in behalf of the board and said city respectively, all contracts made for the purposes of this act, and shall have entire supervision of the affairs of the board.

The vice president, in the event of absence, disability or resignation of the president, shall perform said duties in his place.

The secretary shall keep a complete record of all the proceedings and have charge of all the official plats and maps of the board, and the same shall be open to public inspection.

Sec. 5. The board shall have the authority, and it shall be its duty, to plan and establish a system of public parks and parkways for said city; to designate the grounds to be appropriated and acquired for such purpose within or beyond the corporate limits of said city, in the county of St. Louis, a plat of the premises designated to be prepared and filed in the office of the board at the time of such designation; and upon obtaining title or the right of possession to the same or any part thereof for said city, shall take possession thereof, and exercise exclusive authority for the improvement, use, supervision and government of the same for park purposes. And for the purposes aforesaid is authorized to contract for labor and materials, and to appoint subordinate officers and employ employes, and fix the compensation for their services.

Sec. 6. All parks and parkways and all public grounds of whatsoever description, dedicated or in any manner set apart or acquired for park or parkway purposes in said city, are hereby placed under the supervision and control of said board, and the common council of said city may, by a three-fourths (¾) vote, at any regular meeting thereof, place any street or avenue or part thereof under such control to be used as a parkway. And the board is authorized to acquire, including, for the purpose of such acquirement the exercise of the right of eminent domain, for and in the name of said city, by purchase, lease or otherwise, any and all property so as aforesaid designated for the purposes of this act, and for said purposes to accept for and in the name of said city any donation, gift, bequest or devise, and to contract in the name of said city for the purchase of property to be paid for at such time or times and in such manner as the board may determine, and to accept title thereto and secure the payment of all or any part of the purchase money therefor, by mortgage of the property so purchased or any part thereof, in the name of said city, with or without the issue of the bonds of said city in evidence of the indebtedness therefor; *Provided*, that when the board of park commissioners shall have determined that it is desirable to acquire private property for park purposes, by lease or purchase, or by the exercise of the right of eminent domain, it shall be its duty, before proceeding to acquire the same, to make out and submit to the common council of the city of Duluth a plat showing the land sought to be acquired and a statement showing the price and terms on which the owners will sell; or, if the land is to be acquired by condemnation, the probable expense of the same, the amount of money which the park fund has to its credit, to apply in the payment of the lands so sought to be acquired, and the amount of money which the board believes can be raised by assessments as hereinafter provided. If, from an examination of said plat and statement, it shall appear that the board has or will have sufficient funds to pay for said lands at the time that payment therefor is to be made, or that, with the amount it will have at such time, it may raise from a sale of bonds or from assessments a sufficient amount of money to pay the cost of acquiring said property without interfering with the general financial operations of the city, the common council shall indorse its approval of such acquirement upon the statement and plat, and thereupon the board shall proceed to acquire the property in question, by purchase, lease or condemnation, as may be necessary and expedient; *Provided further*, that no contract for the purchase or lease of land, the proposed condemnation of which has been approved by the council, shall be binding upon the city until

the same shall have been approved by the council; and all the land which may be so as aforesaid acquired for park and parkway purposes shall remain forever appropriated for such use, subject to such ordinances, rules and regulations as said board may prescribe. And with respect to the property purchased with the proceeds of the bonds of said city issued for such purpose, subject to the lien of the bonds which may be issued for the purchase of the same, which said lien, in case of non-payment of the obligation of said bonds at maturity thereof, or of the interest thereon when due, may be enforced by sale of said property, pursuant to decree rendered by any court of competent jurisdiction therefor; *Provided*, that any part of said property so as aforesaid acquired may be sold, subject to all liens thereon, by order of court as hereinafter prescribed. And for the purpose of such sale said board is authorized, upon the affirmative vote of four (4) members thereof, at any time to contract for the sale of any portion of the property included in the system of parks and parkways belonging to said city; and upon petition to the said district court for the confirmation of such sale, and the order of the court confirming the same, after notice by publication or otherwise, as the court may prescribe, to all interested parties, is authorized to convey the same to the purchaser or purchasers thereof, such conveyance to be made by instrument in writing in due form executed in the name of said city by the president of the board, with the official seal of the board, attested by the secretary, thereunto affixed. Said court is hereby empowered to make and enforce all orders, judgments and decrees in the premises deemed proper by said court, and such conveyance shall vest in the grantee or grantees all right, title and interest of said city to and in said property, and the purchase money therefor, when received, shall be paid to the city treasurer, and by said treasurer shall be placed to the credit of the city park fund.

Sec. 7. The board is authorized to institute proceedings for the condemnation for the use of said city of any land or interest therein which may have been by the board designated for park or parkway purposes, and when said proceedings shall have been completed in the manner hereinafter prescribed, and the compensation awarded for the property thereby taken shall have been fully paid, the title thereto in fee shall be vested in said city.

For the purpose of such condemnation the board shall proceed in the following manner: Notice shall be given by publication once each week, for at least four (4) consecutive weeks, in the official newspaper of said city, that the board has determined to acquire such property (*describing the same—terms of general description, referring to the official plat of the premises filed in the office of the board, being sufficient*) for park or parkway purposes, and on a certain day, naming it, will apply to said district court at a time and place to be therein specified, for the appointment of three (3) appraisers to ascertain the just compensation to be made for the same.

Any person interested may appear in said proceedings, and at the time and place designated in said notice the board shall, upon a copy of the resolution for such condemnation, certified by the secretary of the board and proof of notice as aforesaid, filed with the clerk of said court, apply as aforesaid for the appointment of said appraisers; and said court shall thereupon hear said application and determine the same.

Said appraisers shall be freeholders and residents of said city, and shall be notified as soon as practicable by the secretary of said board to attend at a time and place to be stated in said notice for the purpose of qualifying and entering upon their duties; and in the event that any such appraiser refuses to attend as aforesaid he shall, except as hereinafter provided, forfeit and pay a fine to the said city not exceeding fifty dollars (\$50), and shall be liable to prosecution therefor, as in case of fine imposed for the violation of an ordinance of said city; *Provided*, that any person so appointed may be excused by said court from serving as such appraiser, and if a person so appointed shall be disqualified, or die, or be excused by the court from serving, the court, upon application by the board, may appoint another appraiser in his place.

The appraisers, before entering upon the discharge of their duties, shall make oath or affirmation that they will faithfully perform the same, and will ascertain and report the just compensation to be made for the property to be taken. They shall appoint a time and place for hearing, and give ten (10) days' notice thereof by publication in the official newspaper of the city, and shall view said property and hear all legal evidence offered by the board or any person interested in the property, and shall ascertain and appraise the value thereof and the amount of the benefit or damage to the owner or owners thereof, with respect to adjacent property, resulting from such taking. The value of the property to be taken and the benefit or damage aforesaid, if any, shall be assessed in separate sums, and said value, adding thereto said damage, or deducting therefrom said benefit, as the case may be, shall be awarded. If there shall be any building, in whole or in part, upon the land to be taken, the said appraisers shall determine the amount of damage which shall be paid to the owner thereof, in case such building, or so much thereof as may be necessary, should be taken, and also the amount to be paid in case of election to remove the same. The damage with respect to such building shall be appraised separately from the damage with respect to the land upon which the same is erected. If the land and building belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate therein less than an estate in fee, the damage to such persons, or with respect to such interests respectively, may be awarded by the appraisers; *Provided*, that neither such award of the appraisers, nor the confirmation thereof as hereinafter specified, shall be deemed to require payment of such damages to the person or persons named in said award, in case it shall transpire that such person or persons are not entitled to receive the same.

The said appraisers shall, within sixty (60) days after qualifying, or within such further time as the court may grant, report in writing under oath to said court.

Said report shall set forth the award made to each owner, and the benefit or damage assessed with respect to adjacent property, separately stated, and also a statement of the expenses incident to the appraisement. Upon the filing of such report, the board shall give ten (10) days' notice, by not less than three (3) publications in the official newspaper of the city, that said appraisement has been reported, and that application will be made to said court at a time and place mentioned in said notice to consider the same, and at such time and place the court shall review the report. Exception thereto may be taken,

either by the board or any person interested, such exception being in writing; and the board shall have the right, at any time before final confirmation of said report, to withdraw such proceedings, upon payment of the costs thereof. The court shall have power to revise, amend or confirm said appraisement, in whole or in part, or to order a new appraisement, and the same revise, amend or confirm, upon like notice; and the order of the court confirming the appraisal when made shall be attached to or indorsed upon the appraisement roll, and said appraisement and all things contained therein shall thereupon be deemed *res adjudicata*. No appeal shall be allowed therefrom, and the same, with evidence of payment of the compensation therein awarded, shall constitute complete justification of the taking of the property condemned. Within a reasonable time, not to exceed six (6) months after the confirmation of said appraisement, the city of Duluth shall make to the person or persons entitled thereto the compensation awarded and adjudged as aforesaid; and in case any such person or persons refuse the same, or if the owner of the property be unknown or incapacitated, or the ownership thereof be doubtful, the board may pay the amount of such compensation into the court in which said proceedings were had, with a statement of the facts and circumstances of the case, and the court shall have the power to order the investment of the same, and may direct proceedings to ascertain who is entitled thereto, and order payment accordingly.

In case of election by the owner of any building, situated as aforesaid, to remove the same, such removal shall be made within thirty (30) days from the confirmation of said report, or within such further time as the board may allow for the purpose, and the owner thereof shall thenceforth be entitled to payment of the amount awarded in such case. In case such owner shall not elect to remove such building, or shall neglect, after having so elected, to remove the same within said time, such building, or so much thereof as may be necessary, upon payment or deposit of the amount of damage awarded for such taking in manner aforesaid, may be appropriated and sold or disposed of as the board shall direct, and the proceeds, if sale is made thereof, shall be placed in the park fund.

Upon completion of said proceedings for acquiring title, it shall be the duty of the board to cause an accurate description of the property so taken to be prepared, with a statement of the amount of damages, if any, awarded and paid to each former owner thereof, certified by the president of the board, under the official seal thereof attested by the secretary, and to file the same on record in the office of the register of deeds of said county, and it is hereby made the duty of the register of deeds to record the same in the records of the transfers of real estate in said county; and said record shall be *prima facie* evidence of the title of the city of Duluth to said property. It shall also be the duty of the board to file with said register of deeds, plats of all property acquired pursuant to the provisions of this act; and the same shall be kept of record in the office of said register of deeds in like manner as plats of divisions of and additions to the city of Duluth.

Sec. 8. The said city is authorized to cause special assessments to be levied for special benefit derived from the appropriation of any property in any manner for park or parkway purposes, and for such levy shall proceed as follows, to-wit:

Upon acquirement of title by said city to any property for the purposes of this act, the board of park commissioners shall report to the board of public works of said city the location and cost of the property so acquired (or if the same shall have been acquired without cost to said city, the location and estimated value thereof), and it shall thereupon be the duty of said board of public works to determine the specific lots, tracts and parcels of land, if any, specially benefited, and the amount of such special benefit, beyond the general benefit to all real estate in said city, derived from such acquirement for park and parkway purposes, and to assess such specially benefited property therefor. Said lots, tracts and parcels of land so determined and assessed shall be deemed and held to be all the lots, tracts and parcels of land specially benefited by such acquirement, and all such assessments shall be levied, confirmed and collected and shall be a lien upon the property assessed in like manner as is prescribed by law for other assessments for local improvements under the supervision of said board of public works.

Sec. 9. The said city is authorized to cause special assessments to be levied for special benefit derived from any improvement of any park or parkway made by said board, and for the said purposes of such levy shall proceed as follows, to-wit:

Upon the completion of any such improvement, the board of park commissioners shall report to said board of public works, the location, kind and cost of said improvement; and it shall thereupon be the duty of said board of public works to determine the specific lots, tracts and parcels of land specially benefited thereby and the amount of the special benefit, beyond the general benefit to all real estate in the city, derived from such improvement thereby, and to assess such specially benefited property therefor. Said lots, tracts and parcels of land so determined and assessed shall be deemed and held to be all the lots, tracts and parcels of land specially benefited by said improvement, and all such assessments shall be levied, confirmed and collected, and shall be a lien upon the property assessed in like manner as is prescribed by law for other assessments for local improvements under the supervision of said board of public works.

Sec. 10. The board is authorized to adopt such ordinances, rules and regulations for the proper use and enjoyment of all parks and parkways belonging to said city, as in its discretion may be deemed advisable, and to establish and enforce such fines and penalties as may be affixed thereto for the violation thereof. Publication of the same shall be made in the official newspaper of said city, and the same shall be enforced by prosecution in the municipal court thereof.

The city attorney of said city shall be the legal advisor of said board and shall take charge of the prosecution in the municipal court of said city of all offenders for the violation thereof. And the clerk of said court shall receive payment of all fines and penalties imposed by said municipal court for such violation, and shall keep accurate account of the same, and on the first (1st) Monday of every month pay the same to said city treasurer, and the same shall be by said city treasurer kept to the credit of said board in said city park fund.

The mayor of said city shall, upon request of the board, appoint as policemen such persons as the board may designate. Said policemen shall be under the direction and control of, and may be discharged by, the board, and shall be paid for their services by the board. The po-

licemen so appointed shall have all the common law and statutory authority of other city policemen and of constables; and any warrant for search or arrest issued by any magistrate in said city or in said county may be executed by any such special policemen in any part of said city or elsewhere within the jurisdiction of the board.

Sec. 13. The board shall annually, on or before the first (1st) day of October, transmit in writing to the county auditor of said county a statement of the amount of the interest to be paid on all the bonds of said city issued by the board and on all obligations incurred by the board, together with an estimate of the amount of money required for the maintenance, government and improvement of said parks and parkways during the next succeeding year, the total amount not to exceed one-tenth ( $\frac{1}{10}$ ) of one (1) per cent of the valuation of all taxable property of said city, according to the last preceding assessment return; and said county auditor shall thereupon determine the rate per cent of said total amount on said valuation, and in the next general tax list for the state, county and city taxes in said city, shall extend in a separate column under the heading "Park Tax," the *pro rata* tax chargeable for such purposes to the several persons, corporations and lots and parcels of land therein listed, and the same shall be collected in the manner prescribed by law for the collection of other city taxes, and all proper and due proceedings for the enforcement of the same shall apply therefor.

Sec. 14. All funds obtained by the county treasurer of said county from the annual tax levy herein authorized shall be paid by said county treasurer to said city treasurer from time to time, when settlements according to law are made between said treasurers, and the same, together with all funds obtained by said city treasurer from the collection of assessments for special benefit herein authorized and from the sale of the bonds of said city issued for park and parkway purposes, and the proceeds of the sale of property made by virtue of the authority herein conferred, and all funds obtained for the purposes of this act by donation or bequest, or in any manner otherwise, including all payments of fines and penalties imposed for the violation of any of the provisions of this act, shall constitute a separate fund in the city treasury of said city, to be designated "Park Fund." Said fund shall be kept to the credit of said board of park commissioners by said city treasurer, and shall be paid by said city treasurer, upon the warrants of the board signed by the president and attested by the secretary thereof and countersigned by said city comptroller.

Sec. 15. The board is authorized to construct bridges and viaducts over any and all watercourses, roads and ways of whatsoever description within or on the line of any park or parkway belonging to said city, and whenever the title shall have been acquired, for the purposes of this act, to land upon the shore of any lake, pond or watercourse, said board may control and regulate the use of such shore and the water contiguous thereto, and may impose fines and penalties for the violation of such ordinances, rules and regulations as it may adopt with respect to the use of all such property.

Sec. 16. The board is authorized to vacate and discontinue any and all streets, avenues, alleys, roads and thoroughfares of whatever description (except railroads for commercial purposes and graded streets) which pass through, divide or separate any tracts of land owned or hereafter acquired by said city for public parks; *Provided*, that the



foregoing shall not be held to authorize the vacation of streets, avenues or other highways crossing parkways or boulevards connecting public parks or leading therefrom; but no such highways shall hereafter be laid across said parkways or boulevards, except with the consent of the board of park commissioners.

Sec. 17. No road, railroad or thoroughfare of any description shall ever be laid out, located or constructed through or over said parks or parkways, or any part thereof, except upon the consent of the board thereto; *Provided*, that the board shall designate the location of such passage ways across said parks and parkways as may be necessary for public use.

Sec. 18. No telegraph, telephone, electric lights or other wire, nor the posts or supports therefor, shall be placed or erected in, over or upon said parks or parkways, or any part thereof, without the consent of said board, and the same shall at all times be subject to such regulations and conditions as the board may impose or require.

Sec. 19. No trench or excavation for sewage or for gas, water or other pipes or subways shall be opened or made in said parks or the public grounds of said city, or any part thereof, without the consent of said board; *Provided*, that the foregoing shall not be held in any event to prevent the board of public works and common council of said city from providing and carrying out a general system of sewerage or water or light plants for said city and its inhabitants.

Sec. 20. It shall be unlawful for any municipal authority, state, county, town or city, or any officer thereof, to license or permit the sale of intoxicating liquors within four hundred (400) feet of any park or parkway belonging to said city.

It shall be unlawful for any person to offer or keep for sale any intoxicating liquor within said limits, and for the violation in any manner of the provisions of this section with respect to intoxicating liquor the offender, upon conviction in any court of competent jurisdiction therefor, for each and every such offense shall be sentenced to pay a fine of not less than twenty-five (25) dollars nor more than one hundred (100) dollars, and upon default in the payment of such fine shall be confined in the city jail for a term of imprisonment not exceeding sixty (60) days, or until such fine is paid.

Sec. 21. The board of park commissioners herein established shall be in all respects the lawful successor of the existing board of park commissioners of said city, as constituted by, and by virtue of the authority conferred by, the act of legislature herein amended. This act shall not be deemed or held to invalidate or impair in any respect whatever the proceedings, or any action whatever of, or any obligation incurred by said city or said board in behalf thereof, or any lien established or acquired by virtue of any such proceedings or action. The terms and provisions of this act, in all respects in which the same are applicable, shall apply to said proceedings, action, obligation or liens. The appointment of the members of said existing board heretofore made is hereby confirmed, and all the proceedings of said existing board are hereby legalized; *Provided*, that, upon the appointment of the members of the board herein established and due qualifying by the same respectively for the discharge of their duties of office, the respective terms of office of said existing members shall cease.

Sec. 22. The board of county commissioners of said county, upon a majority vote of its members, with a view to the extension of any

parkway belonging to said city, and the benefit of said county, is authorized to place under the control of said board of park commissioners, for improvement, maintenance and supervision as a public parkway, any existing road, and any proposed road intended for such improvement, maintenance and supervision, within the limits of said county, including as such proposed road, the widening or extension of any such existing road; the route and termini of such proposed road being designated, and the maximum cost of acquiring for said county the requisite rights of property therefor being fixed in the resolution for such control; *Provided*, that no such authority shall be exercised by said board of county commissioners within the limits of any incorporated city or village.

Upon receipt of a copy of said resolution, duly certified, said board of park commissioners shall thereupon, with respect to any such proposed road, cause proper survey of the proposed route of the same to be made and a plat thereof to be prepared, duly certified by the president and attested by the secretary of said board, and shall file the same in the office of said register of deeds and proceed to acquire for said county the premises for the purposes aforesaid, in the manner hereinbefore set forth for the acquirement of lands for park purposes for said city; and for such purposes may acquire land to such width as in the discretion of said board of park commissioners may be deemed requisite, including land on either side and both sides of any such existing road. Said acquirement may be made by agreement with the owner of the premises, for the gift of the same to said county, or upon compensation in money therefor, or by proceedings in condemnation; and said board of park commissioners is authorized to enter into such contracts, in behalf of said county, as may by said board of park commissioners be deemed expedient for such purpose, and for the location, opening, improvement and maintenance for parkway purposes of all roads so controlled; and to issue orders upon the county treasurer of said county, bearing seven (7) per cent per annum interest, in payment of the cost of said acquirement, and the expense of such location, opening, improvement and maintenance; *Provided*, that said county shall not incur any liability therefor in excess of the amount fixed by said board of county commissioners.

In the event of the institution of proceedings for the acquirement of land for such purposes by condemnation, all the provisions of section seven (7) of this act shall apply therein so far as the same may be applicable; *Provided*, that in the notice of application for the appointment of appraisers to award the just compensation therefor the land so to be acquired shall be described by reference to said plat so as aforesaid filed; and that, within six (6) months after the confirmation of the report of said appraisers, payment of the compensation therein awarded shall be made by said county to the persons entitled thereto; and that the proceeds of such sales, if any, as are in said section seven (7) authorized, shall be paid to said county treasurer and by said treasurer kept to the credit of the county parkway fund of said county.

Upon acquiring the title to the possession for said county, the said board of park commissioners shall cause its official certificate of the fact and date of such acquiring to be filed in the office of the said register of deeds. Record of entry of the same shall be made by said register of deeds on the said plat of said proposed road, so as afore-

said filed; and said board of park commissioners shall thereupon proceed to improve the premises according to such plan as may be by said board of park commissioners adopted; *Provided*, that the amount of outlay for such improvement and of the annual outlay for the maintenance, repair and further improvement, and for the supervision thereof, shall not exceed the sum fixed for such purpose by said board of county commissioners.

Said board of county commissioners is hereby authorized to levy assessments in behalf of said county for the cost of acquiring such lands, and for the cost of locating, opening and improving the same for use as aforesaid, upon all real estate in said county, without the limits of any incorporated city or village, deemed by said board of county commissioners specially benefited thereby, and for this purpose shall proceed as follows:

Upon receipt of notice from said board of park commissioners of the filing of the certificate aforesaid in the office of said register of deeds, the said board of county commissioners, by publication for three (3) successive weeks in a weekly newspaper published in said county, shall give notice of the time and place of meeting to make the said assessment for the cost of such acquirement; describing in said notice the property acquired (terms of general description being sufficient) and stating the cost of acquiring the same. At such time and place the said board of county commissioners shall assess, upon the premises by said board of county commissioners deemed specially benefited thereby, the cost of such acquirement, all persons interested being entitled to be heard. And, upon completion of such assessment, said board of county commissioners shall cause notice to be published in like manner as aforesaid in this section prescribed, that at a certain date, naming it, not less than ten (10) nor more than twenty (20) days after the last publication thereof, they will apply to said district court, for an order confirming the said assessment. At such time and place, upon proof of publication of the notice aforesaid, the said judge or said court shall hear the said application and the objections of all persons interested in the said assessment, and may revise, amend or confirm the same in whole or in part, or may order reassessment in whole or in part, and the same revise, amend or confirm in whole or in part. The order of confirmation when made shall be indorsed on the assessment roll, and thereupon all things therein confirmed shall be deemed *res adjudicata*, and no appeal therefrom shall be allowed. Said assessment roll shall thereupon be filed in the office of said county auditor, who shall enter the items of assessment therein confirmed against the lots or parcels of land therein described to which the same apply, with the taxes for the same or the next ensuing year, and said assessments shall be collected in the manner prescribed by law for the collection of county taxes, and the same, when collected, shall be kept by said county treasurer to the credit of said county park fund.

And upon receipt by said board of county commissioners of notice in writing from said board of park commissioners of the opening for public use of any such parkway, upon the completion of the improvement of the same for such purpose, said board of county commissioners, by like publication as aforesaid in this section prescribed, shall give notice of the time and place of meeting to make said assessment for the expense of the location, opening and improving of such park-

way, describing the same in said notice (terms of general description being sufficient), and stating the amount of such expense. At such time and place, upon proof of publication of the notice aforesaid, the said court shall hear the objections of all persons interested in the said assessment, and may revise, amend or confirm the same in whole or in part, or may order reassessment in whole or in part, and the same revise, amend or confirm in whole or in part. The order of confirmation when made shall be indorsed on the assessment roll, and thereupon all things therein confirmed shall be deemed *res adjudicata*, and no appeal therefrom shall be allowed. Said assessment roll shall thereupon be filed in the office of said county auditor, who shall enter the items of assessment therein confirmed against the lots and parcels of land therein described to which the same apply, with the taxes for the same or the next ensuing year, and said assessments shall be collected in the manner prescribed by law for the collection of county taxes, and the same, when collected, shall be kept by said county treasurer to the credit of said county parkway fund.

The said board of county commissioners may annually, at the time of making the levy of taxes for county purposes, levy an amount not to exceed five hundred (500) dollars per mile for the repair, maintenance, further improvement and supervision of such parkways, and such amount shall be taxed and collected in the same manner as other county levies are taxed and collected, and the same, when collected, together with all moneys from whatsoever source collected by or paid to said county treasurer in pursuance of the provisions of this section, shall constitute a fund designated "County Parkway Fund," payments therefrom to be made only on the warrants of said board of park commissioners, countersigned by said county auditor.

All the provisions of this act, with respect to the authority of said board of park commissioners over the parks and parkways of said city, and the ordinances, rules and regulations by said board of park commissioners adopted relating thereto, shall apply, so far as the same are applicable, for the supervision of said county parkways and the use, control and government thereof. The prosecution of offenders for offenses thereunder, committed beyond the corporate limits of said city, shall be made in said district court. The county attorney for said county shall have charge of the same, and all fines and penalties imposed by said district court upon such offenders shall be paid to the clerk of said district court, and by said clerk to said county treasurer, and shall be by said county treasurer kept to the credit of said county parkway fund.

Sec. 23. This act shall be a public act. It shall not be necessary to plead or prove the same in any action or proceeding in court; and no law of the state contravening the terms or provisions of the same shall be considered or held as repealing, amending or modifying the same unless such purpose is expressly set forth in such law.

SEC. 2. This act shall take effect and be in force from the time of its passage.

Approved April 6, 1891.