

one with whom a contract shall be made for the whole or any part of the work of construction.

SEC. 13. This act shall take effect and be in force from and after its passage.

Approved April 9th, 1895.

CHAPTER 300.

S. F. No. 701.

Parks and
driveways.

An act to provide for the making of parkways driveways or boulevards on the shores of lakes in this state, when situated in two or more counties, and to dredge the same.

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

Petition to
district court.

SECTION 1. Whenever a petition praying that a driveway, parkway or boulevard be laid along or around the shores of any lake lying in two or more counties in this state, stating specifically the general course and distance of such driveway, parkway, or boulevard signed by at least ten legal voters and freeholders residents of said counties shall be presented to any judge of the district court of the judicial district in which any of said counties is situated, the said judge shall appoint three or more commissioners, whose duty it shall be to meet at such times and places as may be necessary and to immediately proceed to view the premises and determine whether such improvement is of public benefit and if they shall so determine they shall proceed to accurately specify the land to be taken therefor and to ascertain the amount of damages and compensation to be paid to the owners of the property which is to be taken or injured by such improvements or benefited thereby and to assess the amount of such damages and compensation less the benefits accruing to the land adjoining or through which said improvement is laid and to assess the expense of the improvement upon the lands and property to be benefited by the improvement, and in proportion to the benefits received by each parcel without regard to a cash valuation.

Commissioners
—duties.

Each county in which said improvement is situated shall be represented by at least one commissioner who shall be a resident thereof.

Provided, that said commissioners and boards of county commissioners, in executing the powers vested in them by this act shall appropriate to public use no property situated and lying in front of any residence

or the property occupied in connection therewith having a frontage on White Bear Lake or on a highway running along the shore of said lake, unless the right so to do is acquired by contract and purchase and not by condemnation, and when such right is acquired by contract and purchase, the cost thereof shall not be assessed upon property abutting on said improvements, but shall be paid for out of the public treasury of the town or village requesting the purchase of said property, or by contributions voluntarily made for that purpose by people desiring the purchase of said property for public use.

White Bear
Lake.

SEC. 2. Public notice of the presentation of the petition mentioned in the preceding section to such district judge shall be given by publication thereof for at least thirty days in at least one of the newspapers in general circulation published at the county seat of each of the counties through which such driveway, parkway or boulevard is to pass, and there shall be one of said notices posted in each of the most public places at each county seat of such counties.

Notice of
petition.

SEC. 3. The said commissioners shall lay out said driveway parkway or boulevard not exceeding two hundred feet in width in accordance with the prayer of the petition, and the order of the court in the premises, if any.

How laid out.

They may appoint a surveyor, and assistants to make a survey and plat of such driveway, parkway or boulevard, the compensation of such surveyor and assistants shall be such sum as may be allowed by the court after the work is performed.

SEC. 4. The commissioners appointed as herein provided shall make a report of all proceedings had by them under this act together with the statement of such assessments in detail fully describing the tracts and parcels of land to be affected and file the same with the copy of such survey and plat in the office of the clerk of the district court where such petition was filed. They shall give notice by two publications in a newspaper of general circulation published at such county seat that such survey and plat and statement or report is on file in said clerk's office and that application will be made to the court at some time therein stated in vacation or at term as may be determined by them for confirmation of said report and assessment and all parties feeling aggrieved thereby may appear and be heard thereat.

Report.

At such hearing the court may confirm such report or annul the same in whole or in part and direct a new appraisal or assessment as justice may require but the

Hearing.

final confirmation of such report shall be conclusive except as hereinafter provided.

Jury trial—
when.

SEC. 5. Any person deeming himself aggrieved by such appraisal of such commissioners or by the assessment or benefits made by them may demand and have a jury trial in said court to determine the amount of damages to which he may be entitled for the right of way for such boulevard, driveway or parkway, over his or her land in excess of any benefits accruing thereto or as to the amount of benefits assessed against his lands on account of such improvement.

Such demand for a jury trial shall be in writing signed by the demandant his or her agent or attorney, and filed in the office of the clerk of the court in which such petition and report is filed within thirty days after the hearing before the court hereinbefore referred to on the report of such commissioners.

A failure to so file a demand for jury trial shall be deemed and regarded as a consent of the land owner to the appraisal made by the commissioners and as to all such acts their report shall be confirmed.

When any such demand for a jury trial shall be so made and filed the trial so demanded shall be had at the term of the district court next thereafter to be held in the county in which such report and petition is filed, unless continued for cause.

A copy of such notice shall also be served upon the county attorney of such county twenty days prior to the first day of such term.

Confirmation.

SEC. 6. When the amount of the damages or compensation to be paid to any one or more of the owners of the land taken for such driveway parkway or boulevard less the assessments for benefits if any, to be deducted therefrom shall have been finally determined by the proceedings under the provisions of this act, duplicate copies of such reports and confirmation thereof or order in respect thereto shall be filed in office of the register of deeds of the county in which such land is situate, and such report so far as the same constitutes an assessment upon property described therein deemed benefited beyond the amount of damages shall be a lien upon the lands therein described said commissioners shall also file a report of such assessment as finally determined on by the proceeding hereinbefore described with the county auditor of the respective counties in which said land is situated prior to the first day of January, December after such assessments are finally determined. Said auditor shall enter said sums against the property on the usual tax roll and deliver the same to the county treasurer for collection as in the case of

Recording.

Tax.

other taxes, and such sums shall be collected against such lands and paid to the county treasurer in like manner as the tax levy for any other purpose is made and collected; and the sums thereby collected shall constitute a fund to reimburse the respective counties for the damages to be paid and the cost of the improvement hereinbefore referred to.

SEC. 7. The board of county commissioners of each county in which such land is situate which may be benefited by said improvement shall provide for the payment of and shall pay the cost of such improvement, shall cause the amount of the damages or compensation less the benefits received, if any, to be paid to any one or more of the owners of the land taken for such driveway, parkway or boulevard, each county to pay its just proportion as determined by such report with regard to the portion of such roadway, parkway or boulevard which lies in such county.

Cost—how paid.

Said damages shall be paid out of the road and bridge fund of each county, which fund shall be reimbursed as the assessments of benefits are collected.

SEC. 8. The said commissioners may as soon the amount of damages due the property owners is finally adjusted, enter upon the land taken and improve the same as a driveway, parkway or boulevard, and may also dredge the shore of the lake adjacent thereto.

To be improved

All contracts for such improvements shall be let to the lowest responsible bidder, who shall be required to give bonds in the amount of the contract, satisfactory to the commissioners, for the faithful performance of the work and the payment of labor employed and materials furnished.

Contracts—bonds.

Bids shall be advertised for by twenty days' publication therefor in one or more newspapers at the county seat of each county in which such improvement is located based on specifications accurately describing the work to be done and all particulars with regard thereto, in the form and conditions of the contract.

Bids.

Said work and expenses of the same shall be paid for out of the road and bridge fund of the respective counties in proportion to the cost thereof in each county to be determined by the commissioners aforesaid, whose determination shall be final; and the county commissioners shall provide for the taxation if necessary an adequate fund to pay the contracts; said payments shall be made from time to time as provided by the contract, on estimates allowed by the commissioners in charge of said work. The commissioners appointed by the court as aforesaid shall immediately after letting the contract, make an assessment of

Estimates.

benefits on all property especially benefited by said improvement, the same to defray the cost of the improvement and expenses of assessment.

Said assessment when completed shall be duly transmitted to the county auditor of the respective counties in which the land assessed is situate and by him entered on the assessment rolls and delivered to the county treasurer of the respective counties for collection as other taxes.

The same penalty, shall be collected and the same proceedings had as for the collection of general taxes, and the property owners may put in any defense they may have when application for judgment is made for the general taxes on the roll in which the assignment is included.

When judgment is given against any property for said assessment it shall be included in the judgment for taxes for the year included in the tax roll on which said assessment appears.

If any assessment is set aside the commissioners shall reassess from time to time the pieces or parcels as to which said assessment is set aside until each piece shall have paid its proportionate share of benefit.

The benefits collected shall be placed to the credit of the road and bridge fund, to reimburse the same for the moneys paid out on the contract and for expenses.

The compensation of the commissioners shall be determined by the court and shall be paid by the respective counties in such proportions and in such sums and at such times as the court shall determine out of any money or funds in the treasury not otherwise appropriated.

SEC. 9. This act shall take effect and be in force from and after its passage.

Approved April 25th, 1895.