

CHAPTER XII.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REDUCE THE LAW INCORPORATING THE CITY OF STILLWATER IN THE COUNTY OF WASHINGTON AND STATE OF MINNESOTA, AND THE SEVERAL ACTS AMENDATORY THEREOF INTO ONE ACT AND TO AMEND THE SAME," APPROVED MARCH 3, 1873.

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

SECTION 1. That section two of chapter one of an act entitled "an act to reduce the law incorporating the city of Stillwater in the county of Washington, and state of Minnesota and the several acts amendatory thereof, into one act and to amend the same," approved March third, eighteen hundred and seventy, be amended so as to read as follows:

SEC. 2. That the territory included within the following boundaries and limits shall constitute the city of Stillwater, viz: Beginning at a point in the middle of river Saint Croix on the section line directly east of the northeast corner of section number twenty-one in township number thirty north, of range number twenty west of the fourth principal meridian, thence west along the north line of said section twenty-one and the north line of section twenty to the north east corner of the northwest quarter of said section twenty, thence south on the line dividing the east and west halves of sections twenty, twenty nine and thirty-two, to the northeast corner of the southwest quarter of said section thirty two, thence east through the center of said sections thirty and thirty four [thirty two and the centre of sections thirty three and thirty-four] to a point in the middle of lake or river Saint Croix, thence northerly up the middle of said river or lake including the islands therein to the place of beginning. *And provided*, That the authorities of said city may exercise concurrent jurisdiction with the state of Wisconsin over the waters of the said lake and river opposite said city to the eastern margin of said river and lake, and *Provided further*, That nothing herein contained shall be deemed to exclude any portion of the city of Stillwater from the limits of Washington county.

That section five of chapter three of said act be amended so as to read as follows:

SEC. 5. There shall be a clerk of said city styled the city clerk,

who shall be elected by the city council. He shall keep the corporate seal and all the papers and records of the city and keep a record of the proceedings of the city council. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose, and make a fair and full record of all the by-laws, rules and ordinances made or passed by the city council. The city clerk shall have power to take acknowledgements and administer oaths and affirmations, and copies of all papers filed in his office, and transcripts of any records in his office certified to by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall report annually on or about the first day of May to the council an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first of May. He shall make or cause to be made estimates of any work to be done by the city, and countersign all contracts made in behalf of the city, and all certificates of work in behalf of the city by any officer thereof, or any committee of the city council. In connection with the mayor, the clerk upon order of the council, may from time to time borrow for and in behalf of said city such sums of money as may be necessary for temporary purposes, and to anticipate the current revenue only, such loans to be subject to the approval of the city council. He shall examine the reports, books, papers, vouchers and accounts of the treasurer, and shall perform such other duties from time to time as the council may direct. All claims before they shall be allowed by the city council, shall be audited and adjusted by a committee of the city council appointed for that purpose. The city clerk shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party, or in any loan negotiated by the city.

That section nine of chapter three of said act be amended and the same hereby is amended to read as follows :

SEC. 9. The city council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, and appoint one or more assessors and such other officers as may be necessary to carry into effect the provisions of this act and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them whose compensation is not fixed by this act. The mayor shall receive a salary of three hundred dollars per annum, the city clerk a salary of six hundred dollars per annum, and the aldermen each one hundred dollars per annum. No other or further compensation shall be paid to

said officers or either of them for any services performed by them as such officers. The treasurer, justice of the peace and constable shall be entitled to the same fees as like officers in towns receive for similar services under the laws of this state. The city attorney shall receive such compensation as the services rendered by him shall be reasonably worth, and the aggregate amount of all fees compensations and emoluments allowed or paid to any and all officers and committees by the city, and the gross amount of all expenditures incurred by said city shall not exceed in any year the tax levied during that year for the support and maintenance of the said city government.

That section seven of chapter three of said act be amended by adding thereto the following :

Provided, That the city council may in case of necessity require the treasurer to transfer any funds in his hands pertaining to any fund not immediately required to be paid out from any such fund, to the credit of any other fund, to be replaced when the same may be required, or is on hand for that purpose, by order to the treasurer, to be entered in the minutes and a copy thereof to be served on the treasurer by the clerk, which shall be the voucher and authority to the said treasurer therefor.

That section two of chapter four of said act be and the same is hereby amended by adding thereto two new sub-sections, to read as follows :

Thirty-eighth.—To establish the land boundaries of said city on lake and river Saint Croix, and to provide that no filling shall be made in said lake, nor building, bank, dirt, stone, piles, or any obstruction or thing whatever, shall be placed within said lake or river, in front of said city, beyond the limits that may be prescribed by the city council of said city, and the said council may require the removal, and in case of a refusal may cause to be removed, any such obstructions or things placed in said lake or river in front of said city, and if necessary may maintain actions against any persons responsible for such obstructions, in courts of competent jurisdiction, to compel such removal.

Thirty-ninth.—The said council may take possession of and appropriate, and therein and thereon construct, establish and maintain within Lake Saint Croix, beyond low water mark, public wharves and levees, and may condemn of the property [on the land side of the said water line, such property] as shall be necessary, and thereon may construct, in whole or in part, such wharves and levees.

That chapter five of said act be and the same is hereby amended so that the same shall read as follows :

CHAPTER V.

SECTION 1. The city council is hereby authorized to lay out, establish and maintain public squares, parks, grounds, lanes, streets, alleys, wharves and levees, and to vacate, change or enlarge the same and to make any and all improvements, and perform all acts in relation thereto necessary for the welfare of said city.

SEC. 2. It may take private property for any of the purposes in the preceding section mentioned as follows: Whenever twenty or more freeholders of said city shall represent to said council by petition that such enterprise or improvement is necessary, and giving therein a general description thereof, and the names of the persons, if known, whose property or interests will be affected thereby, and shall post a copy of their said petition with notice of the time when the same will be presented to said council, and the names of three disinterested freeholders and voters in said city who they will pray the council to have appointed commissioners in two of the most public places in each ward in said city, at least ten days before the same shall be presented, or publish the same in some weekly newspaper published in said city, for at least two successive weeks, before [such] presentment; the said council, upon satisfactory proof that the said petition and notices were duly posted or published as aforesaid, may proceed to consider the prayer of the petitioners. It shall hear all arguments that may be offered for or against the same, or for or against the appointment of the commissioners mentioned in the petition notice. If in the opinion of the said council there is probable cause for belief that the said improvement or enterprise may be desirable and for the best interests of the public, and there is no good cause shown why the commissioners in the notice mentioned should not be appointed, it shall appoint the said persons commissioners. If good cause be shown why the said persons or either of them should not be so appointed then the council shall appoint in the place of the person or persons so disqualified other persons, disinterested freeholders and voters of said city, and shall enter an order in their proceedings requiring the said commissioners to make examination into the subject matter in the said petition referred to, and to make return to said council whether or not the prayer of the said petitioners or any part thereof ought to be granted.

SEC. 3. The clerk shall within three days after such appointment notify the said commissioners thereof in writing, embracing in such notice a copy of the said order with the said petition attached to the copy served upon the first named or chairman of such commissioners. Should the said commissioners, or either of them refuse or be unable to act, the city council shall, at its next regular session,

appoint others in their stead, whom the clerk shall also notify, and a memorandum of such substitute shall be endorsed upon said notice.

SEC. 4. The said commissioners at such time as they may agree upon within thirty days of the time of their appointment shall proceed to view the premises in question. Before proceeding to do so they shall cause to be given at least five days notice of the time and place of such examination, to all the owners and occupants of the property to be taken upon the persons residing thereon, by delivering to them personally a notice or leaving the same at their place of residence; upon non-residents by publishing such notice for two consecutive issues in some weekly paper published in said city.

SEC. 5. At the time and place mentioned in their notice the said commissioners shall meet and hear all that may be offered for or against said enterprise. They shall take all testimony that may be offered, and reduce the same to writing, and each of such commissioners is hereby authorized to administer oaths and affirmations to all persons during the pendency of such proceeding, and examine persons under oath touching any matter embraced within or growing out of said petition.

SEC. 6. The said commissioners shall also ascertain as well as they can from the owners and others what amount of damage will be claimed by parties interested and also what, if anything, will be voluntarily contributed to such improvement, and also what in the judgment of the commissioners the aggregate damages of such improvement will be to the parties interested over and above the benefits thereof. If in the opinion of the commissioners the improvement petitioned for or any part thereof is necessary they shall cause the same to be surveyed and a map and plat thereof made.

SEC. 7. At the next general meeting of the council after such examination or at such other general or special meeting as the council at such first meeting may order the commissioners shall make a report of their proceedings and findings in writing to the said council for its action embracing therein said plat and survey and a description of the property that will be taken or in the judgment of the commissioners will be injured or directly damaged or benefited by such improvement together with the names of the parties owning the same if known.

SEC. 8. Upon the report of the commissioners being submitted the council shall at that or at some meeting by them there and then specified proceed to pass upon the same and shall hear such arguments as may be offered for or against the same. The council may affirm such report in whole or in part or reject the same in the whole or in part and may make any order in the premises it may deem desirable. If the council decide in favor of such improvement or any part thereof then it shall order the commissioners to again proceed to

view the premises and assess the damages and benefits directly resulting therefrom, and in such order it shall designate a time and place when and where the commissioners shall first meet for said purpose.

SEC. 9. The council, if deemed by it expedient, may purchase of the parties owning the same, the property proposed to be taken for said improvement, or any part of the same, and may also agree with parties benefited as to what amount their property shall be assessed for such improvement. They may make such agreement either before or after such property is assessed by the commissioners. Such agreement shall be in writing; shall be signed by the president of the council, clerk, and parties interested, filed in the office of the clerk, and copied in the order book hereinafter mentioned. Said agreement to be valid must be approved by a vote of the said council upon a call of ayes and noes, and must be assented to by at least eight-ninths of all the council elected.

SEC. 10. If no agreement is made between the council and all the parties interested, then the said commissioners shall, at the time and place designated, proceed to again view the premises. They may adjourn from time to time and place to place, until such assessment is completed. They shall hear all parties that may be interested, take such testimony as may be offered, and reduce the same to writing. They shall make a separate assessment of damages and benefits to each particular portion of property or interest directly damaged or benefited. In their assessment of damages to any property or interest, they shall determine and appraise to the owner or owners thereof the value of the same, and the injury arising to them respectively, from the condemnation thereof, which shall be awarded to such owners respectively as damages after making due allowances therefrom for any benefit that may be by them derived from such improvement. In making their assessment for benefits to any property or interest, they shall assess to such property or interest respectively the same, after making due allowance for all damages that the same may sustain from such improvement. If the damage to any property or interest be greater than the benefits received, or the benefit be greater than the damage, in either case the commissioners shall strike a balance and carry the difference forward to another column, so that the assessment shall show what amount is to be received or paid on account thereof, and the difference [only] shall be paid to any person interested.

SEC. 11. If there shall be any building standing in whole or in part upon the land to be taken, the said commissioners shall add to their estimate of damages for the land, and also damages for the building or buildings or the part of any building or improvement necessary to be taken; if the property so taken be owned by any other person or

persons other than the owner of the land, the damages to or for the building shall be assessed separately, granting to the person owner or otherwise the right and authority at his option to remove such portion of said property so to be taken, the value of which shall be assessed by said commissioners, as well as all damages connected therewith and notice of such determination shall be given by said commissioners to the owner or person entitled thereto if known if a resident of the city, either personally or left at the last usual place of abode of the person upon whom service is to be made. In case the owner or person interested therein and entitled to notice as aforesaid is not known to said commissioners, or is a non-resident of the said city of Stillwater, notice of the action of said commissioners to all persons interested in such property may be given by publication thereof in some weekly newspaper published at the city of Stillwater. And such owner or person interested in said property may at any time within twenty days after service of said notice or within ten days from the last publication of said notice, by written notice served upon the clerk of said city council, notify the said city council of his election to take said building or part of any such building at the appraisal so made by said commissioners, and in such case the amount of such appraisal shall be deducted by the said city council from the estimated damages so assessed by said commissioners, and the owner or person entitled thereto shall have such reasonable time for the removal of the building or buildings after the confirmation of the assessment as the said city council may allow. If the owner or person entitled thereto shall refuse to take the building at the appraisal so made by said commissioners, or fail to give notice of his election as aforesaid within the time above limited and prescribed, then no deduction shall be made from the estimated damages aforesaid, and the said city council shall after the confirmation of the said assessment by said city council which they may do, and after the money is collected or otherwise provided and in the hands of the treasurer, to be paid to the owner or person entitled thereto for the damages so appraised, the said city council may proceed to sell such building or buildings or part of such building at public auction for cash, giving at least ten days public notice of the sale by publication in some weekly newspaper published in said city, and cause such building to be then immediately removed, the proceeds of such sale shall be paid to the city treasurer to the credit of the current fund of said city.

SEC. 12. Said commissioners having assessed the benefits and damages of such contemplated improvement as hereinbefore prescribed shall make and file with the city clerk a written report of their proceedings, embracing a schedule and assessment of the ben-

efits and damages in each case, with a particular description of the land and premises proposed to be taken, or which will be directly damaged or benefited by such improvement, with the names of the owners thereof, if known to them, together with a statement of all the costs of such proceeding, and all the evidence by them taken. Upon filing the said report as aforesaid the said clerk shall cause the assessment aforesaid of damages, benefits and costs to be entered in a book to be kept for that purpose, and shall give five days' notice in some weekly paper published in said city, by notice inserted therein for at least two successive issues of such paper, that such assessment has been completed, and that at a meeting of the council to be held at a time specified the said council will meet for the purpose of hearing objections thereto, and that unless sufficient cause be shown the same will be then and there confirmed. All objections to such assessment shall be in writing and filed with the city clerk at least two days before the meeting of the council to be held to take action concerning said report. *Provided*, That nothing herein contained shall preclude the said council from causing a new notice to be given of a meeting of the council for the hearing of the objections to the said assessment, and for confirming the report in manner as before provided for in case the previous notice should be found imperfect, or in case of a defect in the numbers of the council, or for any other reason which shall be satisfactory to said council. The council shall have power to adjourn such hearing from time to time, and shall have power to revise or correct said assessment, and to confirm the same by an order in its minutes, or set aside the same and make a new assessment by other commissioners by it appointed for that purpose after notice to at least five of the petitioners, of its intention to do so.

SEC. 13. Said assessment when confirmed, shall be final and conclusive upon all parties interested therein, except as hereinafter provided. When so confirmed, a copy thereof with the order of confirmation attested by the clerk and president of the council, shall be filed in the office of the said city clerk, who shall proceed to record the same in a book to be kept by him for that purpose, and the benefits so assessed shall be a lien upon the premises so assessed, from the confirmation of said report, and the same shall be assessed against the several tracts of land and the premises affected and inserted in the next annual tax roll, and the same shall be collected as other taxes against real estate, and when so collected shall be paid into the city treasury and be a part of the current fund of said city.

SEC. 14. The said commissioners before entering upon the discharge of their duties, shall severally take an oath that they are freeholders of said city and not interested in the premises proposed

to be taken, and that they will faithfully and honestly discharge the trust reposed in them.

SEC. 15. If the assessment shall be set aside by the council or by the court, the council may proceed to order another or new assessment, shall appoint new commissioners who shall be notified by the clerk as the first, and who shall proceed in like manner as provided for the first, and all proceedings shall be as hereinbefore provided in the first instance, and all parties in interest shall have like rights, and the said council and other city officers shall perform like duties and have like powers in relation to any subsequent assessment as are hereby given in relation to the first.

SEC. 16. When such assessments shall have been confirmed, and no appeal shall have been taken therefrom, or if an appeal shall have been taken when judgment to confirm the assessment shall have been rendered thereon, the same shall be a lawful and sufficient condemnation of the land or property sought to be appropriated, and the order of confirmation of the said council shall be prima facie evidence that all the proceedings precedent thereto were just and regular. After such final proceeding, the said council shall cause to be paid to the owner of such property or his agent, the amount of damage over and above all benefits which may have been awarded therefor, but the claimant shall in all cases furnish an abstract of title showing himself entitled to such damages before the same shall be paid. If in any case the council shall have any doubt as to who is entitled to the damage for the land or property taken, they may require of the claimant a bond to its satisfaction, with good and sufficient sureties, conditioned to hold the city harmless in the premises from all loss, costs and expences the city might sustain should any other person show himself entitled to the said damage or any part thereof. If the owner be unknown or refuse to receive his assessment, the amount thereof may be deposited with the city treasurer for the benefit of such person, and subject to his order, which deposit shall be a sufficient payment of such assessment.

SEC. 17. In all cases the title to property taken and condemned shall be in the city of Stillwater in fee simple.

SEC. 18. When any known owner of any land or premises affected by the proceedings under this chapter shall be an infant or laboring under any other legal disability, his next friend or in his default, the city attorney for said city shall apply to the judge of probate of Washington county, who shall thereupon appoint a guardian for such person, upon whom notice may be served, and with whom proceedings may be had as with other persons under no disability.

SEC. 19. Any person whose property has been appropriated and

who has filed his objection to the assessments as hereinbefore provided for, may at any time within ten days after the filing of the order of the confirmation of the report of the commissioners, appeal to the district court of Washington county. Said appeal may be made by the party appealing by filing a notice with the city clerk giving a description of the property of the appellant appropriated, the amount of the damages and benefits assessed therefor, and the objections of said appellant to such assessments, and shall serve a copy thereof on the city attorney, and also file a bond in said court to the said city, with such sureties and in sums as the judge of said court will approve, conditioned that if the party appealing shall not succeed in his said appeal he will pay all the costs and damages that may be awarded against him. The city attorney may also appeal from said assessments or any part thereof in behalf of said city when required so to do by twenty freeholders of said city. The city attorney may appeal by serving a notice on the clerk and party or persons whose property is assessed, and from which assessment the appeal is taken, if such parties be residents of said city. If such parties be not residents the said notice may be published in some weekly newspaper printed and published in said city for three successive issues and such publication shall be regarded as sufficient notice.

SEC. 20. In case of an appeal, a copy of the assessment roll as confirmed aforesaid, with the order of confirmation thereof, certified by the clerk at the appellant's expense, shall be filed in the office of the clerk of the court to which such appeal shall be taken, and the cause shall be docketed by such clerk in the name of the party taking the appeal as plaintiff against the city of Stillwater; unless the appeal is taken by the city attorney, in which case it shall be entered as against the party whose property is assessed, and from which assessment the appeal is taken.

SEC. 21. The said cause shall then be at issue, and shall have the preference in the order of trial over all civil causes pending in said court; such appeal shall be tried as other cases on appeal are tried, except that no pleading shall be necessary, and on such the only question to be passed upon shall be whether the city council had jurisdiction in the case, and whether the value of the property specified in the objections is a fair valuation, and the assessment, so far as it affects such property, is a fair and impartial assessment. An appeal from the judgment of the district court shall lie to the supreme court, and upon verdict or assessment judgment shall be entered that upon payment of the verdict or assessment within one year thereafter, the premises in question may be taken for the public use for the purposes of such improvement.

SEC. 22. All acts and parts of acts conflicting with this act are hereby repealed.

SEC. 23. This act shall take effect and be in force from and after its passage.

Approved March 5, 1874.

CHAPTER XIII.

AN ACT TO AMEND CHAPTER THIRTEEN OF THE SPECIAL LAWS OF EIGHTEEN HUNDRED AND SEVENTY-TWO, ENTITLED AN ACT TO INCORPORATE THE VILLAGE OF DODGE CENTER.

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

SECTION 1. That chapter thirteen of the special laws of Minnesota for the year eighteen hundred and seventy-two, be amended so as to read as follows: All that part of the township of Wasioja, in the county of Dodge and state of Minnesota, included within the following described limits or boundaries, viz.: The east one half of section No. thirty-three, and all of section thirty-four, all in township No. one hundred and seven, range seventeen, is hereby constituted a village by the name and style of the village of Dodge Center, and by that name the people now inhabiting or those who may hereafter inhabit the said district in said county, shall be a municipal corporation, possessing all the powers incident to municipal corporations at common law, with perpetual succession, and shall be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law and equity, and may have a common seal.

SEC. 2. The inhabitants of said village having the qualifications of electors of members of the legislature of the state of Minnesota as hereinafter provided, may elect a president, three trustees, a treasurer and a recorder who shall hold their respective offices for one year or until their successors are elected and qualified; also a justice of the peace, and a constable, who shall hold their respective offices for two years or until their successors are elected and qualified, and before entering upon the duties of their respective offices they shall each take an oath or affirmation to support the constitution and laws of the state of Minnesota and faithfully discharge the duties of his office. The treasurer shall give such bonds as the village council may require. The treasurer shall keep a true account