

CHAPTER 19.

[S. P. No. 818.]

AN ACT TO AMEND CHAPTER TWO (2) OF THE SPECIAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND EIGHTY-SEVEN (1887), ENTITLED "AN ACT TO DEFINE THE BOUNDARIES OF AND ESTABLISH A MUNICIPAL GOVERNMENT FOR THE CITY OF DULUTH."

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

SECTION 1. That section two (2) of chapter one (1) of an act entitled "an act to define the boundaries of and establish a municipal government for the city of Duluth," being chapter two (2) of the special laws of the year eighteen hundred and eighty-seven (1887), be and the same is hereby amended by striking off from the end of said section the words, "excepting therefrom that portion of Minnesota Point lying southerly from the ship canal cut through said Point." All territory added by this amendment shall be a part of the first ward of said city.

SEC. 2. That section sixteen (16) of chapter three (3) of said act be and the same is hereby amended so as to read as follows:

Section 16. The common council shall have power, where the same is not herein established, to fix the compensation of every officer elected or appointed under this act. Such compensation shall be fixed by resolution, to be adopted by a vote of two-thirds ($\frac{2}{3}$) of the members elected to the common council, at the time each officer is declared elected or appointed, or as soon thereafter as may be practicable, and, when so fixed, shall not be increased or diminished during the term for which such officer shall have been elected or appointed; except that the common council shall fix annually the salary of each member of the board of public works at the time in each year when a new member thereof shall be appointed. The compensation to be allowed in any one (1) fiscal year as salaries to the city clerk, city attorney, city comptroller, city treasurer, city engineer, city assessor, board of public works, and the clerk of the board of public works, shall not exceed in the aggregate the sum of twenty thousand (20,000) dollars.

SEC. 3. That section two (2) of chapter four (4) of said act be and the same is hereby amended so as to read as follows:

Section 2. No plat or map of any addition, division, rearrangement, sub-division or any plan of platting any territory in the limits of the city of Duluth shall be of any validity or be filed or recorded by the register of deeds until the approval of the board of public works of said city is duly endorsed thereon and signed by a majority of said board. All maps or plats presented to said board for approval shall be in duplicate, upon substantial cloth-back paper, and shall be of uniform size, that is twenty-two (22) inches in width and thirty (30) inches in length, and shall have two (2) inches blank space on the end at the left hand of said drawing to allow for binding.

The plat shall show the connection of streets and lots with the

streets and lots of adjoining plats. The boundary of the land so platted shall be shown by dotted red lines, and sub-divisions or rearrangements of lands shall have the original plat drawn thereon in faint lines of a different color; the correct location of all monuments must be plainly shown; all streets must have their width plainly marked, and all lots and fractions of lots must have their dimensions plainly given either by written description or by figures, and all curved or broken lines shall have the radius, angles and length marked or described on said plats. Said plats shall also have endorsed thereon a certificate dedicating streets and other public lands to the public, and also a certificate of the surveyor who made the survey stating that all distances as marked on the plat are correct, and that permanent monuments have been placed as shown thereon, together with acknowledgments as required by law. On presentation of said plats or maps together with an abstract of title to the land so platted, the board may, if deemed necessary, examine the same and the territory covered by such maps or plats, and for that purpose may require the city engineer to cause such examinations to be made and it is hereby made the duty of the city engineer to make such examinations and carry out the requirements of said board, and report the result of his investigations thereon to them; and if in the judgment of said board, or a majority of them, the streets and other public grounds dedicated to the public are suitably laid out with reference to topography of the ground and the needs of the public and the streets are of sufficient width, and as far as practicable join with the streets of any adjoining plat, if any; and if in their opinion there are sufficient permanent monuments set to govern future surveys, and if the certificates and acknowledgments above mentioned are properly endorsed thereon, said board shall then endorse their approval on one of the plats or maps, and certify to the other one as a true copy of the one approved by them. If it appears that any lien exists on said land the approval of said board shall be withheld until a release of said land is properly made so far as the same may relate to land dedicated to the public. The plats or maps after being approved by the board of public works, shall by them be sent to the common council for their acceptance; after acceptance by the common council, said plats shall be delivered by the city clerk to the city engineer, who shall make a copy of the same on the scale of one hundred (100) feet to one (1) inch for filing in his office, and shall also retain possession of said plats or maps and shall have the same filed for record in the office of the register of deeds for St. Louis county; *provided*, the owners or owner of said maps or plats shall pay into the city treasury to the account of the general fund, a sum of money equal to fifty (50) cents for each acre contained within the boundaries of said plat or map, and shall farther pay to the city engineer all fees and costs necessary for filing the same for record, and in no case shall said city engineer give up possession of or deliver said plats or maps to any person other than the register of deeds, but shall, as soon as said costs and fees have been received at once convey said plats or maps to the office of the register of deeds and file the same for record in said office. When said plats shall be presented to the register of deeds for record, the map endorsed as approved by said board of pub-

lic works and accepted by the common council of said city, shall be filed for record as the original plat, the other shall be certified by the said register of deeds as a true copy of the original plat; the sum to be received by the register for so filing for record both of said plats, shall be two (2) cents for each and every in-lot and out-lot one of said plats may contain.

The plat or map filed as the original, shall only be open to inspection in the presence of the register of deeds or of one (1) of his deputies; the certified copy shall be open to the inspection of the public during office hours; the originals as well as the copies shall from time to time be bound in separate books, in good and substantial binding whenever a sufficient number shall have accumulated in the register of deeds office to make a book. The cost and expense of said binding to be paid by the county of St. Louis. The register of deeds shall not file for record any plat or map of any territory within the limits of the city of Duluth, unless a true copy of the original map or plat shall be presented with the original map or plat aforesaid.

SEC. 4. That section three (3) of chapter four (4) of said act be and the same is hereby amended so as to read as follows:

Section 3. Said board shall, subject to the approval of the common council, establish a system of grades for all streets, avenues and alleys within said corporate limits, for which grades have not been heretofore established; and said common council is hereby authorized, by resolution adopted by a vote of two-thirds ($\frac{2}{3}$) of all the members elected thereto, to change the grades of any of its streets, avenues or alleys heretofore or hereafter established, in accordance with the specifications in said resolution set forth.

SEC. 5. That section four (4) of chapter four (4) be and the same is hereby amended so as to read as follows:

Section 4. Said board may require, before any street is paved, that gas and water mains be laid therein; and may also require the owners of lots fronting on such street to cause connections to be made to the curb in front of their respective lot or lots. A written notice shall be served by said board upon such owners or their agents, requiring them within a reasonable time not less than thirty (30) days to cause such connections to be made. If such owners or any of them shall fail or neglect to have such connections made within the time specified in said notice, the common council may order such connections to be made and the cost of the same may be assessed upon the lots opposite to which they are made, respectively, as a part of, or in connection with the assessment for the paving.

Said board shall establish a system of sewers for the entire city and cause the same to be designated upon the plats showing the streets, avenues and alleys through which the same are to be constructed, but such system shall not conflict with or change the sewers which are already in operation; and no street shall be paved until the sewer to be constructed through the same shall be completed as far as the pavement is to extend.

SEC. 6. That section fourteen (14) of chapter four (4) of said act be and the same is hereby amended by adding thereto the following words: "And whenever, in the opinion of said board, there is

unnecessary obstruction of any of the streets, avenues, and alleys, or public grounds of said city caused by any corporation or individual, it shall be the duty of said board to give notice for the immediate removal of such obstructions, and to order such individual or corporation to place said street, avenue, alley or public ground in as good condition as the same was previous to said obstruction; and in case the party so notified neglects or refuses, within a reasonable time after such notice, to comply with the requirements thereof, then it shall be lawful for said board of public works to cause said obstruction to be removed, and the city of Duluth is hereby authorized to sue for the expense necessarily incurred in such removal, or to deduct the same from any money that may be due, or that is to become due, from said city to the person or corporation so disobeying said notice, and to recover the same in any court of law.

SEC. 7. That section two (2) of chapter five (5) of said act be and the same is hereby amended so as to read as follows:

Section 2. Such assessments may be made by the said city of Duluth for filling, grading, levelling, paving, curbing, railing, bridging, gravelling, macadamizing, planking, opening, extending, widening, contracting, altering and staightening any street, avenue, lane, alley or highway, and for sprinkling the same; also for filling, grading, protecting, improving and ornamenting any public park, square or grounds now or hereafter laid out; also for planting and protecting shade and ornamental trees in its public parks and along its streets and avenues, and caring for the same; *provided*, that nothing herein shall be construed as trespassing upon or interfering with the actual duties of any board of commissioners who may be acting as park commissioners during the life of this charter; also for easement in land for slopes or retaining walls for cuts or fills in street improvement; also for changing or diverting streams and water courses and may assess the cost upon the property deemed benefited by such change; and also for constructing, laying and repairing cross walks and sidewalks, retaining walls, area walls, gutters, sewers; also for private drains, and appurtenances ordered to be made, or made by the common council upon the recommendation of the board of health, when necessary as a sanitary measure. And the common council may, when any contract is let for paving or constructing a sewer, include in such contract, or make a separate contract, for the laying of sewer pipes to the curb, and the cost of the same may be assessed against the lot for which such sewer pipes are laid as a part of, or in connection with the assessment for such paving or constructing of sewer.

If in making any permanent street improvement the board of public works be of opinion that a retaining or area wall is necessary, either for the protection of such improvement or for retaining embankments, the said board may cause such wall to be built, either at the curb line or at the street line, and may assess the whole or any part of the cost thereof, upon abutting property, according to the special benefits to such property from the building of any such wall, and such special assessment may be made as a part of or in connection with the assessment for such permanent improvement.

SEC. 8. That section ten (10) of chapter five (5) of said act be and

the same is hereby amended by inserting therein after the word, "court" in the fourteenth (14th) line of said section, the following:

Said judge or court shall have power to revise, correct, amend or confirm said assessment in whole or in part, and to make or order a new assessment in whole or in part, and the same revised or confirmed on like notice. All persons may appear before said judge or court, either in person or by attorney, when such application shall be made, and may object to said assessment either in whole or in part; *provided*, that all objections shall be made in writing, and shall be filed with the board of public works at least three (3) days before the time fixed by the application, and shall specify the lot, block or parcel of land on behalf of which objection is made.

That said section ten (10) be further amended by adding thereto the following words:

Provided, further, that in all proceedings and advertisements relating to any of the assessments provided for in this chapter, letters or figures may be used to denote lots, parts of lots, lands, blocks, section, town, range, or part thereof, the year and the amount.

SEC. 9. That section sixteen (16) of chapter five (5) of said act be and the same is hereby amended by striking out the word, "treasurer" in the eighth (8th) line from the end of said section, and inserting in lieu thereof the word, "comptroller."

And that said section sixteen (16) of chapter five (5) be also amended by striking out on the fourth (4th) and fifth (5th) lines from the bottom of page eighty-two (82) of said section of said special act as printed, the words, "therefor at so much per lineal foot," and inserting after the words, "side walks" in the third (3d) line of page eighty-three (83) the words, "as may by them be deemed benefited."

Also by further striking out from the fourteenth (14th) line from the top of said page eighty-three (83) the words, "an equal sum per front foot along the line of" and inserting in lieu thereof the following words: "benefits for".

SEC. 10. That chapter five (5) of said act, be and the same is hereby amended by adding thereto the following section:

Section 17. Whenever the board of health shall report to the common council that stagnant or impure water stands upon any lot, lots or parcel of land, in their opinion creating a nuisance, injurious to the public health, the common council may refer the matter to the board of public works with directions to forthwith investigate the same and report the result of their investigation to the common council together with a plan for abatement of such nuisance, and an estimate of the expense of abating the same, and if the common council shall determine that a nuisance exists, and that the same is injurious to the public health, they shall cause a written notice to be served upon the owner of the property, or his agent, directing him to abate said nuisance within the time specified in said written notice, under the directions of the board of public works, and if such owner fails or neglects to obey said notice, the common council shall direct the board of public works to abate the same, and if in the event of the abatement by the board of public works as aforesaid, real estate can be found benefited to the extent of the costs of said abatement, or any part thereof, the same or a part thereof shall be assessed thereon,

and the same proceedings with reference to special assessments shall be had in relation thereto by the board of public works as in case of other local improvements provided for in this chapter.

SEC. 11. That chapter five (5) of said act, be and the same is hereby further amended by adding thereto the following section:

Section 18. No error or omission which may have heretofore been or may hereafter be made in the order or in the proceedings of the common council, board of public works, or any of the officers of said city in referring, reporting upon, ordering or otherwise acting concerning any local improvement provided for in this chapter, or in making any assessment therefor, or in collecting said assessment, not affecting the substantial justice of the assessment shall invalidate or in any way affect such assessment.

SEC. 12. That chapter six (6) of said act be and the same is hereby amended by adding thereto the following section:

Section 4. That the duties conferred upon commissioners by this chapter shall devolve upon and be performed by the board of public works, so far as the same shall apply to easements for slopes for cuts or fills.

And that section one (1) of said chapter six (6) be amended by inserting after the word "street" in the sixth (6th) line of page eighty-four (84) of said act as printed, the words: "and for easements for slopes, for cuts or fills, either before or after a street is graded."

SEC. 13. That section one (1) of chapter seven (7) of said act, be and the same is hereby amended so as to read as follows:

Section 1. The common council of the city of Duluth shall have the sole and exclusive power to vacate or discontinue streets, avenues, alleys or highways within said city. No such vacation or discontinuance shall be granted or ordered by the common council except upon the petition of a majority of the owners of the frontage of property on the line of that part of the street, avenue or alley proposed to be vacated, and also for the distance of four hundred (400) feet at each end thereof beyond the limits of any such proposed vacation or discontinuance. Such petition shall set forth the facts and reasons for such application, accompanied by a plat of the portion of such street, avenue, alley or highway proposed to be vacated and shall be verified by the oath of at least two (2) of the petitioners. The common council shall thereupon order the petition to be filed for record with the city clerk, and shall give notice by a publication in the official paper of the city for four (4) successive weeks, at least once in each week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the common council or a committee appointed by them on a certain day and place therein specified, not less than ten (10) days from the expiration of such publication. The common council or such committee as may be appointed by them for the purpose, at the time and place appointed shall investigate and consider the said matter and shall hear the testimony and evidence on the part of the parties interested.

SEC. 14. That chapter seven (7) of said act be and the same is hereby amended by adding thereto the following section:

Section 4. Whenever the common council shall determine to va-

cate any public ground, street, alley or highway, under the provisions of this chapter, and no other public ground, street, alley or highway are properly pledged and dedicated to the public in lieu of such vacation or discontinuance, then and in all such cases the owner or owners to whom the use of said land so vacated or discontinued would revert shall pay into the city treasury such sum or sums of money if any, as the common council shall deem equitable and just, and as a condition precedent to the vacation or discontinuance prayed for, and all moneys arising out of and collected under this section shall be set apart and constitute a fund to be called a "public park fund."

SEC. 15. That section twenty-three (23) of chapter nine (9) of said act be and the same is hereby amended so as to read as follows:

Section 23. Bonds given by any banks in pursuance of section fifteen (15) of this chapter shall continue in force until final and satisfactory settlement is made with the city treasurer, and such settlement is approved by the common council. In case of neglect or failure of any bank to fully account for money due and belonging to the city of Duluth a right of action shall accrue on such bond in favor of and it may be prosecuted in the name of the city.

It shall be the duty of the common council at its second regular meeting in the month of April each year, or as soon thereafter as possible, and at other times when deemed necessary, to examine all bonds in the hands of the city treasurer, and if any are deemed insufficient said city council may require new bonds satisfactory to said council. All bonds given under the provisions of this chapter, upon being approved by the common council shall be deposited with, and recorded by the city comptroller, and the record of such bonds so kept by the city comptroller, or copies thereof certified by that officer, shall be competent and prima facie evidence of the contents and tenor of such bonds.

SEC. 16. That chapter four (4) be and the same is hereby amended by the addition of the following section:

Section 15. No person shall occupy or obstruct or excavate in any street, avenue or alley of the city without a written permit from the board of public works, said permit to be given under such rules and regulations as the common council may adopt.

SEC. 17. That section seventeen (17) of chapter nine (9) of said act be amended by inserting therein after the word "of" in the second line of said section, the following: "Not less than," so that the first (1st) two (2) lines of said section will read:

"The banks receiving such funds on deposit shall pay interest on the same at the rate of not less than three (3) per cent."

SEC. 18. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 19. This act shall take effect and be in force from and after its passage.

Approved April 24, 1889.