
SAN JOSE MERCURY.

J. J. OWEN, Editor.

Thursday February 23, 1865.

WATER ORDINANCE.—We publish, this week, an ordinance passed by the Common Council granting to Donald McKenzie and his assigns the exclusive right, for twenty-five years, to lay down water pipe through the streets of the City, and to supply the public with pure water, wherever in his judgment the business will warrant the same. It is provided that he shall construct a reservoir with a capacity of fifty thousand gallons, thirty feet above the City grade, and that the City shall have free use of all water necessary to extinguish fires. The City reserves the right to regulate the rates of charges for all water for private use. It will be seen that the ordinance is carefully guarded, and can work no manner of hardship to individuals. It will be many years before the owner of this franchise can expect to realize a fair interest on his investment; but that it will eventually be valuable no one will question. We regard this project as a public measure of great importance to our City; and we are pleased that the franchise has been placed into so worthy hands. The result must inevitably be a far greater security against fires, and as a consequence an important reduction in rates of insurance.

AN ORDINANCE in relation to supplying the city of San Jose with water.

Be it ordained by the Mayor and Common Council of the city of San Jose as follows :

SEC. 1. The exclusive right is hereby granted to Donald McKenzie and his assigns to supply the inhabitants of the city of San Jose with good and pure water for the term of twenty-five years from and after the passage of this ordinance, provided that he will complete his works and introduce good and pure water for use within eighteen months from the date of the passage of this ordinance.

SEC. 2. The exclusive right is hereby granted to Donald McKenzie and his assigns to lay pipes through any and all the streets of this city (at his option), where the public demands may require, for the purpose of supplying good and pure water to the inhabitants thereof for the period of twenty-five years, and provided that after said term it shall not be lawful for any other person Company or Corporation to lay pipes for a like purpose nearer than two feet six inches of those laid by said McKenzie and his assigns except where they may require to cross each other.

SEC. 3. In consideration of the exclusive privileges herein granted to Donald McKenzie and his assigns it is hereby agreed to and in behalf of said Donald McKenzie and his assigns to and with said city that if the said city may wish to use the said water for fire purposes and for the use of the Engine Houses, they may and shall have the free use thereof for all such purposes, paying only to said McKenzie and his assigns the cost of constructing fire plugs and cocks and the necessary connections with the mains thereof.

SEC. 4. All the streets, alleys or public places along or through which the main and the distributing pipes for conducting said fresh and pure water may be laid, the dirt or other material displaced in laying such pipes shall be replaced in all cases and fixed in as good order and condition as it may have been before the pipes were laid, and all reasonable dispatch shall be used in excavating and laying such pipes, so as not to cause unnecessary obstruction to the streets, alleys or public grounds through which the same may pass.

SEC. 5. Said Donald McKenzie and his assigns shall be required to construct a reservoir of not less than fifty thousand gallons capacity which shall have an elevation of not less than thirty feet. And the main pipes shall not be of a less diameter than five inches in the clear, and of sufficient strength to carry out the purposes intended by this ordinance.

SEC. 6. All the rights herein granted to said Donald McKenzie and his assigns shall in no way operate to prevent the erection of reservoirs of water upon the property of any person or persons within the limits of the city, or the conducting of water from wells or reservoirs made or erected, to the premises of other persons whenever such is done as a matter of accommodation and not of regular business for profit.

SEC. 7. After the expiration of three

SEC. 7. After the expiration of three years from the first day of April, A. D. 1865, and on the expiration of every three years thereafter, the Common Council may establish rates of charges for water which shall not exceed those fixed and being charged by any water company in any town or city in this State in which said water works are supplied by means of a pump or of pumps. And provided further whenever complaint shall be made of exhorbitant or unreasonable charges for water, it shall be the duty of the Common Council to examine into the matter, and if in their opinion said complaint is justly made, at the expiration of the times, as aforesaid, they shall notify the owners or managers of said water works that a Committee of two of said Common Council will be appointed, mentioning the time and place when said Committee will meet two persons appointed by said McKenzie or his assigns, for the purpose of determining in relation to the complaint made, and if said Committee cannot agree as to the rates of charges to be made for the sale of water, by said McKenzie or his assigns, then an umpire shall be elected by said Committees to determine between them, a majority of whom shall be sufficient to establish the rates of water charges for such term.

If said McKenzie or his assigns shall fail to appoint such Committee, when being duly notified so to do by the Common Council, or such Committee when appointed shall neglect or refuse to meet and confer with the Committee appointed by the Common Council, the Common Council then reserves to itself the right to establish the water rates or charges for such term.

SEC. 8. The city reserves to itself the right to purchase said water works and material at the expiration of twenty years, at cost or at its appraised value as it may determine.

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

Passed and approved Feb. 17th, 1865.

J. A. QUINBY, Mayor.

Attest:—JOHN. T. COLAHAN, City Clerk.