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An Act to Provide for a Supply of Pure and Wholesome Water for Public and Private Purposes, in the City of Middletown.

Resolved by this Assembly, SEC. 1. That the mayor, aldermen, councilmen and freemen of the city of Middletown, be and hereby are authorized and empowered in the manner hereinafter prescribed, to take and convey from the Connecticut river, or from any stream or streams of water, or from any spring or springs, any lake, pond or reservoir of water within the limits of the town of Middletown, or within the limits of any town adjoining said Middletown, such supply of water as the necessities and convenience of the inhabitants of said city may require, and are also hereby authorized and empowered to issue bonds, notes, scrip or certificates of debt under the corporate name and seal of the city, bearing interest at no greater rate than six per cent. per annum, to any amount not exceeding in the whole the sum of two hundred thousand dollars, the principal of which said bonds, notes, scrip or certificates shall be payable at some certain time or times within thirty years from the issuing of the same ; and said bonds, notes, scrip or certificates shall be denominated the Water Fund of the City of Middletown, and the avails thereof shall be applied and expended to and for the purpose of supplying said city with pure and wholesome water, according to the mode or plan adopted in pursuance of the provisions of this act, and for no other purpose whatsoever ; and said bonds, notes, scrip or certificates, when issued and delivered by said city or by its agents thereunto duly authorized, shall be obligatory upon said city, and the inhabitants thereof, according to the purpose and tenor of the same ; and said city, in a city meeting legally warned and holden for that purpose, may prescribe the amount for which said bonds, notes, scrip or certificates shall be issued, and direct concerning the form thereof, the rate of interest, and the time of paying the interest which shall accrue thereon.

SEC. 2. Whenever said city shall have voted to issue bonds, notes, scrip or certificates of debt in the manner aforesaid, it shall be the duty of the common council of said city, within fifteen days thereafter, to designate and appoint three persons, who shall act as a board of water commissioners, with the powers conferred by this act, until others shall be chosen and sworn in their stead. And at the annual city meeting of said city which shall be holden in the month of January, A. D. 1866, for the choice of city officers, there shall be chosen three water commissioners, who shall be voted for on the same piece of paper with such other officers as are now by law chosen thereat, and shall be elected by a plurality vote. One of the persons so chosen shall hold office for one year, one for two years, and one for three years, the term of each to be assigned by lot, to be drawn by said three commissioners in the presence of the mayor and the clerk of said city, and said clerk shall certify the result of said drawing within one week thereafter, by a publication of the same in one or more of the newspapers issued in the city of Middletown. And at each subsequent annual meeting, holden for the choice of city officers, one person shall be chosen for a water commissioner, to hold office for the term of three years. And the three commissioners who

shall be elected in city meeting, shall constitute the board of water commissioners for the then ensuing year, and until their successors are sworn and qualified ; and the official term of said board shall date from the third Monday of January in each year.

SEC. 3. All vacancies which shall occur in said board by death, resignation, or by reason of a tie vote at any city election, or in any other manner, shall be filled by the common council of said city, at a meeting specially warned and holden for that purpose, within ten days after said vacancy shall occur, and said common council shall have power, by a two-thirds vote, to remove any commissioner for official misconduct.

SEC. 4. Said board shall elect a president, to be approved of by the common council of said city, who shall devote his whole time and attention to the construction, supervision, care and management of the water works, under the general advice and direction of the commissioners, and to such other duties connected with said water works or with other business of the city as shall be assigned to him by said common council, who shall fix his compensation, but shall allow no salary or fee to any other member of the board except as a remuneration for actual expenditures.

SEC. 5. The board of water commissioners are empowered and it shall be their duty to ascertain a feasible plan for the introduction and proper distribution of water into and through the city of Middletown ; to employ engineers and surveyors with reference thereto, and to estimate the probable cost of carrying such plan into execution ; to make conditional contracts with the proprietors of any estate, real, personal or mixed, or of any franchise, right or privilege which shall be required for the aforesaid purpose ; to report their plan, estimates of expense and revenue, and conditional contracts, with appropriate reasons and calculations, to the common council of said city, who may approve or reject the same ; and whenever any contract, provisionally entered into by said board, shall be ratified by said common council, the same shall be obligatory on said city.

SEC. 6. Whenever any plan of said board shall have been approved by said common council, said board shall immediately thereupon be empowered to take and hold, for and in behalf of said city, any lands or other estate necessary for the construction of any dams, canals, aqueducts, reservoirs or other works for conveying or containing water, or for the erection or construction of any buildings or machinery, or for laying any pipes or conductors for conveying water into or through said city, or to secure and maintain any portion of the water works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act, and to distribute said water through said city in pursuance of the subsequent provisions of this act ; to establish public hydrants under the direction of said common council ; to prosecute or defend any action or process at law or in equity by the name of the Board of Water Commissioners of the City of Middletown, against any person or persons or corporation for the breach of any contract, express or implied, relating to the performance of any work or labor upon said water works, or the management of the same, or the distribution of the water, or for money due for the use of the water, or for any injury or trespass or nuisance affecting the water, machinery,

pipes, buildings, apparatus or other things under their superintendence, or for any improper use of the water or any wasting thereof, or upon any contract or promise made with and to them as water commissioners, or with their predecessors or successors in office; and said board shall be regarded as a corporation for the purpose of suing and being sued.

SEC. 7. Said board are hereby authorized to enter in and upon any land or water for the purpose of making surveys and to agree with the owner or owners of any property or franchise, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner or owners for the same. And in case of disagreement between said board and any owner or owners as to such compensation or as to the amount of damages which ought to be awarded to any person claiming to be injured in his estate by the doings of said commissioners, or in case any such owner shall be an infant or married woman, or insane or absent from this state, or unknown, or the owner of a contingent or uncertain interest, either judge of the supreme court of errors may, on the application of either party, cause such notice to be given of said application as said judge shall see fit to prescribe, and after proof thereof may nominate and appoint three disinterested persons to examine such property as is to be taken for or damaged by the doings of said commissioners, and they being duly sworn to a faithful and impartial discharge of their duty, shall estimate the amount of compensation which said owners shall receive, and report the same in writing to the clerk of the superior court for Middlesex county, to be by him recorded. Said judge of the supreme court of errors may thereupon confirm the doings of said appraisers and direct whether said commissioners shall pay the same to said owners or shall invest or deposit the same in such manner as said judge may prescribe, in full compensation for the property acquired or the injury done by said commissioners; and on compliance with the order of said judge, said commissioners may proceed with the construction of their works without any liability to any further claim for compensation for damages.

SEC. 8. Said commissioners shall also be empowered, after the approval of their plan as aforesaid by the common council of said city, to make use of the ground or soil under any road, railroad, highway, street, private way, lane or alley within this state for the purpose of constructing the works contemplated by this act: but shall in all such cases cause the surface of such road, railroad, highway, street, private way, lane or alley to be restored to its usual condition, and damages done thereto to be repaired, and all damages sustained by any person or corporation in consequence of the interruption of travel to be paid to such person or corporation.

SEC. 9. Said commissioners may make contracts for labor and materials for the general purposes contemplated by this act (to be binding on said city when ratified by the common council); and all contracts for materials to be furnished or services to be rendered shall be in writing, and three originals shall be made of each such contract, which shall be numbered with the same number and indorsed with a summary of the work to be done or materials to be furnished and the date of the contract, one of which originals shall be held by the said commissioners,

one by the contractor and one by such city officers as shall be designated by the common council of said city; and no commissioner shall have any pecuniary interest, direct or indirect, in any such contract; and no such contract shall be made unless good and satisfactory security for the faithful performance of the same be given by the contractor at the time of making the same.

SEC. 10. Said commissioners shall advertise in one or more newspapers for sealed proposals for such contracts, and specify times and places where the same are to be received; and such proposals shall, in order to be received and acted upon, set forth a specified sum or price to be paid for materials and services, or for either, without condition, limitation or alternative, and shall be accompanied with a bond satisfactory to the said commissioners, conditioned upon the faithful execution of the proposition in the event of the acceptance of the same; and said commissioners shall receive no more than one proposition from the same person or persons for the same contract, but shall reject all which are offered by such person or persons as offer more than one; and no contract shall be assigned without the consent of the said board and the common council of said city.

SEC. 11. Said commissioners or board shall be the trustees of the bonds, notes, scrip or certificates of debt issued by said city of Middletown, and may be authorized by said city to superintend the issuing of the same and regulate the particular form thereof; and after the same or any part of them shall be issued, said commissioners may sell such notes or certificates at public or private sale for their par value, or at such higher rate as said scrip shall command, or may pledge the same for loans not usurious, under the direction of the common council of said city, at such times as the proceeds of the same shall be required to meet the appropriations made or allowed for the surveying, preparing, constructing and maintaining of water works by said common council; and said common council shall direct what sum of money shall be raised from and upon said scrip before they shall permit the construction of water works to be commenced and prosecuted; and a duplicate record shall be kept by said commissioners of all notes or certificates issued, disposed of or pledged in pursuance of the provisions of this act, one copy thereof to be by them delivered to the city treasurer; and all moneys accruing from the sale or pledge of said bonds, notes, scrip or certificates of debt shall be received by the president of said board, and by none other, and deposited by him in one or more of the banks of the city of Middletown, and shall be drawn out only on the order of the city treasurer.

SEC. 12. All claims against said commissioners, or said city, on account of said water-works, may be presented to said commissioners, and when approved by them, shall be laid before the common council of said city, who may allow the same, and direct the mayor of said city to draw his order on the city treasurer for the amount of any such claim.

SEC. 13. Said commissioners shall superintend the construction of the work, and keep a record of their official proceedings in that behalf, and report to the said common council a general exhibit of the state of the works, including a detailed account of sums required to be expended therefor, and such other matters of information as may be called for by

said common council, which said report shall be made semi-annually, and at such other intermediate times as said common council may designate, and said commissioners shall keep regular books of accounts.

SEC. 14. After the completion of said work according to the plan or plans approved by the common council of said city, the board shall regulate the distribution and use of the water in all places, and prescribe the purposes to which the same shall be applied: *provided*, that whenever said water is to be distributed or conducted through and into public hydrants or sewers, or applied to any public use, such as the extinguishment of fires, or watering streets, or other like purposes, said commissioners shall act under the direction of said common council in relation thereto. Said commissioners shall, with the assent of said common council, establish scales of prices or terms upon which water shall be furnished, and regulate the time or times of payment, and collect all water-rents, and shall faithfully account for the same; which prices or rents, when so established, shall not be reduced below a fair and reasonable compensation for the use of said water so long as the aggregate of said water rents shall be, or by such reduction shall become insufficient to pay the annual expenses of said water works and the interest upon the debt of the city incurred in building the same, except by a vote of two-thirds of the legal voters of the city, at a city meeting specially called for that purpose. And said commissioners shall make such by-laws or regulations for the preservation, protection and management of the said water-works as may be deemed advisable, and enforce the same by suitable penalties; and when said by-laws or regulations have been approved by said common council, they shall be of binding validity, and said commissioners may bring, in their own name, actions of debt on such by-laws to recover any penalty for the breach of the same.

SEC. 15. Said commissioners shall keep a register of all persons who use the water, and of the prices by them payable therefor, and shall apply the avails of water-rents to the payment of the ordinary and current expenses of said water-works, such as repairs, the hire of clerks and agents, and of extending pipes into new localities, (under the direction of the common council), and shall pay any excess of such avails over the sum requisite for the last mentioned purposes to the city treasurer on the first Monday of each and every month, an account of water-rents received and expended during the preceding month having been first audited by a committee appointed by the common council for that purpose, and by said committee approved. The accounts so presented shall be attested by the oath or affirmation of at least one member of the board.

SEC. 16. It shall be the duty of the city treasurer to apply any avails of water-rents by him received, to the payment of interest on the aforesaid scrip or certificates of debt; and if there shall be any excess, to report the fact to the common council, who may direct whether the same shall be applied to the extinguishment of the principal debt by the issuing of said scrip, or to the enlargement of the water works.

SEC. 17. In case the avails of water-rents in any year shall be inadequate to meet the current expenses of said water works and the interest on said scrip, the deficiency shall be supplied by the laying of a tax on the polls and ratable estates of all persons liable to city taxation;

which said tax shall be estimated by the common council of said city, and recommended to a city meeting specially called for the purpose of laying the same; and said meeting may then lay such tax as shall be necessary to meet the aforesaid deficiency. And said city, at any city meeting specially called and holden for that purpose, may lay taxes for the purpose of paying the principal debt aforesaid, or any part thereof, by the establishment of a sinking fund, or in any other proper manner.

SEC. 18. Taxes laid for the purposes mentioned in the preceding section may be collected in the same manner as other city taxes; and any claim of said commissioners for the use of water, shall be a lien upon the house, tenement or lot, wherein or in connection with which, said water was used by the owner or occupier thereof. And said lien may be foreclosed before any court having competent jurisdiction, in the same manner as a mortgage is now foreclosed, according to the rules of equity.

SEC. 19. Said commissioners may require additional rents for the use of water whenever extra quantities shall be used exceeding the quantity estimated for the same class of buildings, establishments or trades, in the scale of prices by them adopted, and said commissioners shall make no contract for the use of water for a longer term than one year, except with the consent of the common council.

SEC. 20. A majority of said commissioners shall constitute a quorum for the transaction of any business allowed or required by the powers or duties of said board. And no member of said commission shall be able to act as such until he has been sworn to a faithful performance of his duty, as such commissioner; and the president shall give a bond, with at least one sufficient surety, in the sum of twenty thousand dollars, conditioned on such faithful performance.

SEC. 21. If any person shall maliciously and wilfully corrupt the water collected or conducted in, or into any reservoir, cistern, hydrant, conductor, engine, pipe, or any portion of the water works contemplated by this act, or destroy or injure any work, machinery, materials or property erected, constructed, used or designed to be used within the city of Middletown or elsewhere, for the purpose of procuring and keeping a supply of water, he shall forfeit and pay to said city treble damages in an action of trespass brought by said commissioners, and such person, on conviction thereof before any court having jurisdiction of the offense, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by such fine and imprisonment both.

SEC. 22. This act shall be to all intents and purposes a public act, and may be altered, amended and repealed by the general assembly, and the same shall not go into effect until it has been accepted by the common council of said city, as a part of the charter of said city, at a meeting specially warned and holden for that purpose within sixty days from the date of the passage hereof, for the purpose of voting upon the question whether they will or will not accept this act as an amendment to the city charter, and if a majority of the votes given in said meeting shall be in favor of the acceptance of this act, then said act shall be in full force and become a part of the charter of said city of Middletown; and unless a majority of the votes given in said meeting shall be in favor of the acceptance of this act, then said act shall be of no effect.

SEC. 23. This act shall take effect from the day of its acceptance, in the manner aforesaid, by the common council of said city of Middletown.

Approved July 20, 1865.

Amending the Charter of the Winsted Water Works.

Resolved by this Assembly, SEC. 1. That section second of An act authorizing the construction of the Winsted Water Works, passed May session, A. D. 1860, be so altered and amended that the borough of Winsted may at their annual meetings elect one water commissioner each year to serve for three years, instead of electing three for one year as now provided.

SEC. 2. The first election under the provisions of this act shall be held on the first Monday of May, 1866, at which time there shall be one water commissioner elected to serve three years, one to serve two years, and one to serve one year ; and at each annual meeting thereafter, there shall be chosen one commissioner to hold office for a term of three years, and until his successor is chosen and sworn.

Approved July 20, 1865.

Amending the Charter of the Centreville Water Company.

Resolved by this Assembly, SEC. 1. That the thirteenth section of the charter of the Centreville Water Company be and the same is hereby repealed.

SEC. 2. That if said company in constructing their works shall take and use the waters of the Goodyear spring and stream, or any portion thereof, said company shall, at their own cost and charges, erect and at all times maintain along the line of said spring and stream all necessary pipes, troughs, fixtures and facilities and a sufficient supply of water for watering all the domestic animals which may be owned and kept upon the lands through which the said waters now flow, by the proprietors thereof. In case of any disagreement between said company and said land owners, or any of them, in regard to the sufficiency of the supply of water so to be furnished to said land owners as aforesaid, the same shall, at the request of any party in interest, be heard and finally determined by the selectmen of the town of Hamden for the time being, whose decision shall be final and conclusive, and a majority of whom shall be competent to render an award. If after such hearing and decision said company shall refuse or neglect to carry such decision and award into effect, it shall be the duty of such selectmen to shut off the water from the aqueducts and works of said company derived from said Goodyear spring and stream while said neglect and refusal shall continue.

Approved July 21, 1865.