

THE CITY COUNCIL.

Special Session--Passage of the Ordinance Providing for the Establishing of Water Works in Clinton--Official Report.

CLINTON, March 26, 1874

Council met in special session Roll called; present--Ald. Howard, Hassett, Monroe, O'Donnell, Price and Smith.

Ald. Munroe presented a petition for the macadamizing of Second avenue between Third and Fourth streets, and moved that the petition be referred to the Committee on Streets and Alleys. Carried.

Ald. Smith, chairman of the special committee to whom was referred the petitions and proposals for water works, made a report that the committee, in obedience to the instructions of the Council, had investigated the subject and presented, as the result of their labors, an ordinance entitled, "An ordinance to provide for a supply of water for the inhabitants of Clinton, Iowa, for domestic use and fire protection."

Ald. Howard moved that the report of the committee be accepted. Carried.

Ald. Munroe moved that the report of the committee be taken up, and that the ordinance be read for the first time for the purpose of bringing it before the Council. Carried.

By agreement, the Clerk then read the ordinance for the first time.

Ald. Munroe moved to amend section eleven so as to provide for the laying of pipes for domestic purposes. Carried.

Ald. Price moved to further amend the ordinance so as to extend the pipes in certain directions. Carried.

Ald. Price moved the rules be suspended and the ordinance be read for the second time. Carried.

The Clerk then read the ordinance a second time, several amendments being made by the Council by general consent.

Upon a third reading, Ald. Price moved that the ordinance, as amended, be adopted. Upon call of the yeas and nays the ordinance was adopted by the following vote:

YEAS--Ald. Hassett, Howard, Lamb, Magden, Munroe, O'Donnell, Price, and Smith.

NAYS--None.

Ald. Hassett presented the following resolution, which, upon call of the yeas and nays, was adopted unanimously.

Resolved by the City Council of the City of Clinton, That a new sidewalk be built on the west side of Fourth street, from Fifteenth avenue south to the alley between Fifteenth and Sixteenth avenues, said walk to be built six feet in width, of good sound two-inch plank, and well spiked upon three pieces of 4x4 inch pine stringers. If the same is not built within ten days the city will construct the same and charge the cost to the property adjacent.

Upon motion, the council adjourned

GEO. BREXNER, City Clerk.

AN ORDINANCE

To provide for a supply of water for the inhabitants of Clinton, Iowa, for domestic use and fire protection.

Section 1. *Be it ordained by the City Council of the city of Clinton, That there is hereby granted to the Clinton Water Works Company, a corporation organized under the laws of Iowa, its successors and assigns, the exclusive privilege for twenty years, and an equal right with all others thereafter, of supplying the city of Clinton with water to be taken from the Mississippi river at such point opposite the city of Clinton as will best suit the objects and purposes of the company to which this franchise is granted.*

Sec. 2. That the said Clinton Water Works Company, its successors and assigns, shall have during said term of twenty years the right to use any street, avenue, lane, alley, square or sidewalk for the purpose of laying down pipes or other fixtures for the conveyance of water and distributing of the same to the citizens of said city.

Sec. 3. That during the laying down, placing or repairing at any time of said pipes and other fixtures through said streets, avenues, lanes, alleys, squares or sidewalks, no unnecessary obstructions shall be permitted by said city or by said company; and in laying said street mains and connection pipes all pipes shall conform to the grade established by said city so that on the completion of said work no obstructions of pipes or other material shall prevent the free use of any street, avenue, lane, alley, square or sidewalk; but said company shall have the right for the purpose of repairing said pipes, at any time whenever necessary, to disturb any street, avenue, lane, alley, square or sidewalk, but said company shall with diligence repair the same with the material so disturbed, making the same in as good condition as before the pipe was laid or repaired.

Sec. 4. That in case said company refuses or neglects to repair said streets, avenues, lanes, alleys, squares or sidewalk within a reasonable time after said work is completed, and having been duly notified of such neglect by the proper officer or officers of said city, the City Council of said city may direct the necessary repairs of said streets, avenues, lanes, alleys, squares or sidewalk to be made at the cost of said company; and the said company shall be responsible for all damages sustained by any person or persons by reason of negligence of its servants or employes while constructing and operating said works as above stated.

Sec. 5. That the said company shall, upon its acceptance of the franchise granted by this ordinance in writing, proceed without delay to make suitable arrangements for carrying out the purpose of this franchise, and shall lay down before the first day of August, A. D. 1874, not less than two miles of main pipes of sufficient dimensions to deliver the requisite amount of water for domestic supply and fire protection, and the said pipe shall be so arranged as to secure the best results both as to present and future wants and requirements; and it is hereby further provided, that said two miles

of main pipe, laid as required by the terms and conditions of this ordinance, shall be laid from the water works pumping house to a connection with the main line of pipe on Second street in said city, thence along said Second street from center of square between First and Second avenues to Thirteenth avenue, and along said Thirteenth avenue east to First street; also along Eleventh avenue from said Second street east to First street, and west along Eleventh avenue to Fifth street; also along Fourth avenue west from its connection with the main pipe on said Second street to a point on said Fourth avenue where the aforesaid two miles shall terminate; and that there shall be located on said lines of main pipes as aforesaid not less than twenty-five fire hydrants, at such points as the City Council may designate, with double discharge hose attachments of approved make, which hydrants are to be provided and maintained by said company and to be connected with the street mains, which connections shall be considered main pipes, and in said main pipes suitable valves, stop-cocks or other arrangements shall be placed to disconnect the water in the mains from the hydrants, which may be done by districts along the main line of pipe; also valves or other arrangements shall be used in the mains at such points as will properly control the water in distribution divided into districts as aforesaid. That said company shall lay down before the first day of November, A. D. 1874, an additional amount of main pipe of not less than two miles and one thousand four hundred and fifty-one feet in length, starting from a point where the first mentioned two miles of main pipes terminate on Fourth avenue, thence along said Fourth avenue west to a point half way distant between Fifth and Sixth streets; also along Fifth street from Second avenue to Seventh avenue; thence east along said Seventh avenue to Fourth street, thence south along said Fourth street to the south side of Fourteenth avenue, also along Third street from Tenth avenue to Thirteenth avenue; also along Eighth avenue from Second street to Third street; also along Seventh avenue from First street to Second street; also along Sixth avenue from Second street to Third street, also along Fifth avenue from First street to Second street; also along Third street from Second avenue to Fifth avenue, also along Fourth street from First avenue to Fifth avenue; also along Sixth avenue from Fifth street to a point half way distant between Fifth and Sixth streets, also along Ninth avenue from Fourth street west to a point half way distant between Fifth and Sixth streets; also along Tenth avenue from Fifth street west to Sixth street; and that there shall be located on said lines of main pipe as last mentioned as aforesaid not less than twenty-eight (28) fire hydrants, at such points as the City Council may designate, which hydrants and connections are to be provided and maintained by said company and governed by all the restrictions which govern the hydrants heretofore mentioned. And it is hereby further provided that the said City Council may from time to time require by ordinance or resolution that the said company shall within a reasonable time, not to exceed ninety days, extend said mains and pipes to other parts of the city; provided, that in extending said mains the said city shall pay an annual rental as heretofore provided for one fire hydrant for every four hundred feet; and provided further, that no such extension shall be required by said city as aforesaid unless there shall be an average number of not less than four tenements, or an equivalent thereto on each four hundred feet of main pipe so ordered to be laid. It being understood by and between said City of Clinton and said company that for any additional hydrants required by said city the rental for each additional hydrant shall be at a price to be agreed upon between said city and said company at the time said additional hydrants are ordered, but in no case is said rental to exceed the price paid for the first fifty-three hydrants provided for in this ordinance.

Sec. 6. That during the life of this franchise the said city shall pay to said company for each fire hydrant provided and maintained by said company as aforesaid an annual rental of one hundred dollars, said rents to be paid semi-annually. All rents for fire hydrants shall commence as soon as the same are ready for use, or whenever the Water Works Company give notice to the City Council and the same are accepted and prepared to furnish the requisite amount of water in case of fire.

Sec. 7. That in consideration of the rights, franchises and privileges herein granted unto said company, and for the further consideration of the annual rental to be paid by said city for the fire hydrants as aforesaid, the said company shall give unto said city at all times the free and unobstructed use for fire purposes of any and all the fire hydrants located and maintained by said company as aforesaid, and the said city and its proper officers and employes shall have the right at all times for the purpose of extinguishing fires to take water from said fire hydrants without any costs or charges to said city over and above the annual rental as aforesaid; and that at all times in case of fire alarm at the pumping works the said company shall cause a sufficient pressure to be kept up at the fire hydrants in use to throw six streams of water simultaneously out of one and a quarter inch nozzles a distance of one hundred and fifty feet, except at a time of unusual and unavoidable casualties. That in the construction of said works the machinery and other fixtures used shall be of such character and capacity as will furnish the necessary supply of water, excepting in times of unavoidable casualties as aforesaid for domestic use and fire protection along said lines of main pipe.

Sec. 8. Any person not authorized by said company to turn water on fire hydrants, except said city, its proper officers and employes for the purpose of extinguishing fires as aforesaid shall be deemed guilty of a misdemeanor and on conviction thereof before any court of

that jurisdiction shall forfeit and pay a fine of not less than ten dollars nor more than twenty-five dollars or imprisonment for a term of not less than five days nor more than thirty days and costs of prosecution, in the discretion of the court, for each offence.

SEC. 9. Said company or its agents or employes properly authorized by said company shall have the right to enter upon the premises of any consumers of water furnished by said company for the purpose of examining the condition of the pipe and fixtures of said consumer, with a view to the prevention of wastage of water, and when found to be improperly used or wasted, on refusal or neglect to repair and remedy the defects causing said wastage, or for a failure to use water in a proper manner, the said company shall have the right to shut off water and keep it shut off until satisfactory assurance is made to the company that such defects are remedied, and the water shall be properly used; and the company shall also have the right to shut off water from mains or distributing pipes for a reasonable length of time for the purpose of putting down extension pipes or for repairs. And said company is also hereby authorized to condemn and appropriate in the manner provided by law so much private property as shall be necessary for the construction and operation of said water works, they paying the cost and expense of the same.

SEC. 10. The City Council of said city shall, during the life of the franchise hereby granted pass and enforce all ordinances, penal or otherwise, that may be necessary to carry out the provisions of this ordinance and as are usual in such cases to protect the rights and interests of said company, and shall also pass and enforce such ordinance as may reasonably be required to preserve and maintain the purity of the water from whence the supply is taken. And the City Council shall have power and authority to pass all ordinances and by-laws necessary to compel said water works company to perform its duties and obligations contained in this ordinance.

SEC. 11. And it is further agreed and understood that said water works company shall, whenever the City Council order, lay all necessary pipes for domestic purposes, whenever there shall be an equivalent of two tenements that will take water for every one hundred (100) feet of pipe so laid, and shall also supply the requisite amount of water at all times for the purpose aforesaid, and the rates to be charged by said company for water furnished to consumers shall not exceed those from time to time charged on an average in the cities of Davenport, in Iowa, and Rock Island and Peoria in Illinois.

SEC. 12. That a failure to accept the franchise hereby granted in writing within thirty days from the passage of this ordinance by said company organized as aforesaid shall forfeit all rights, privileges and franchises hereby granted; but if accepted by the company as aforesaid, this ordinance shall constitute and be regarded as a contract between the said city of Clinton and said company and shall not be subject to amendment or repeal without the consent of both parties.

SEC. 13. That in consideration of the rights and privileges herein granted unto said company the said city hereby reserves the right, at the expiration of the term of ten years from the date of the passage of this ordinance, to take from the company the entire works together with its franchises and privileges, at a valuation then to be agreed upon in manner following to-wit: Said city shall give the said company notice in writing one year before the expiration of said term of 10 years of its intention to take said works as aforesaid, whereupon said city shall appoint two appraisers and said company shall appoint two appraisers, and the four so chosen shall choose a fifth, and the five so selected shall proceed to value all machinery, pipes, buildings and material then on hand belonging to said company and a decision of a majority shall be binding upon said city and said company, and upon the payment of the amount so determined to said company, it shall at once deliver to said city all of said property; but it is hereby provided, in case the four appraisers chosen as aforesaid shall refuse or neglect for 30 days after having been appointed as aforesaid to select a fifth, then and in that case either party may apply to the Judge of the District Court of this judicial district, who shall appoint the fifth appraiser; and it is also understood that a failure on the part of said company for thirty days to select the two appraisers as heretofore provided, shall authorize said city to apply to the Judge of the District Court of this judicial district, who shall appoint said two appraisers as is provided of the fifth appraiser. And it is also understood that any disagreement between said city and said company shall be settled by arbitration, each party selecting one and the two so selected to select a third, whose decision shall be final and conclusive between the parties. And said company shall also, during the life of this franchise furnish water free of charge to said city for two fountains each on Clinton and DeWitt Parks and one each on the parks east of First street, whenever said parks are fenced and improved, said city to pay all cost of laying the necessary pipes for such supply; said fountains to be supplied for at least six months in each year, commencing on the first of May and continuing until the first day of November in each year.

Adopted by the City Council of the City of Clinton, this 26th day of March, A. D., 1874.

CHAS. H. TOLL, Mayor.

GEO. BRUNSER, City Clerk.