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ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1881.

CHAP. 101.

AN ACT to provide for a supply of water in the village of Amsterdam, and to exempt said village from the provisions of chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five.

PASSED April 14, 1881 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. Stephen Sanford, John Kellogg, Davis W. Shuler, Henry E. Greene, Gardiner Blood, John McUlmpha, Jr., Walter R. McCowatt, Augustus Clark and John McFarlan are hereby constituted and appointed water commissioners in and for the village of Amsterdam, in the county of Montgomery. Said commissioners shall hold their offices as follows: Three of them for three years, three of them for four years, and three of them for five years from May first, eighteen hundred and eighty-one. And said commissioners shall, within ten days after the passage of this act and the election hereinafter provided for, meet and determine by lot, unless said commissioners shall agree upon some other method, which of the said commissioners shall hold their offices for the terms above stated, which determination shall be entered in a book of their proceedings to be kept by them, and upon and within thirty days before the expiration of their respective terms of office their places shall be filled by appointment by the president and trustees of said village. The person or persons thus appointed shall be residents and tax payers in said village, and shall each hold their office for the term of three years from the first day of May next ensuing their appointment, and until his or their successor is duly appointed and qualified. All vacancies shall be filled by appointment by the board of trustees and president of said village, which appointment shall be for the unexpired term. Such commissioners and each of them, before entering upon the duties of their office shall take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk of Montgomery county, and give the bond hereinafter required. And any persons appointed such commissioner, who shall refuse or neglect to take and file the oath of office, or give the bond as above required, for twenty days after personal notice in writing from the clerk of said village of his appointment, shall be deemed to have declined the office, and his place may be filled as in case of a vacancy.

§ 2. The said water commissioners may sue and be sued under the name of "The Water Commissioners of Amsterdam," in any of the courts in this state. They shall organize by electing one of their number president. They shall also elect from their number a secretary and treasurer. They may make all necessary rules and regulations for their government and for the transaction of their business as commissioners. The treasurer shall give a bond with sufficient sureties for the faithful performance of his duties in such amount as may be determined by said commissioners and approved by them.

§ 3. It shall be the duty of the commissioners to examine and consider all matters relating to supplying the said village with pure and wholesome water, and for that purpose they shall have power to employ engineers and surveyors and such other person or persons as shall be necessary for that purpose. And they shall adopt such plans

Commissioners.

Terms of office.

Qualifications.

Vacancies.

Official oath and bond.

Corporate name.

President.

Rules.

Treasurer.

Powers and duties of commissioners.

as in their opinion may be most feasible for procuring such supply of water, and which shall embrace proper distribution pipes and supplies for all streets and places where in their opinion it shall be of interest to the village, and for that purpose they shall have power to contract for and purchase and take by deed or other instrument under seal in the name of Amsterdam village, for said village, all lands, tenements, hereditaments, rights and privileges whatever and situate at any place within the county of Montgomery, or within any county adjoining the county of Montgomery, which may be required for the purpose, and to contract for the execution of the work, or any part thereof, or the supply of any necessary material; and the commissioners and their agents and employes are authorized to enter upon any land or water for the purpose of making surveys, and to agree with the owner of the property, real or personal, which may be required for the purposes above-named, as to the amount of compensation to be paid such owner.

§ 4. Before entering, taking or using any land for the purposes of this act the said water commissioners shall cause a survey and map to be made of the lands intended to be taken or entered upon for any of said purposes, by and on which the land of each owner or occupant shall be designated, which map shall be signed by the president of said water commissioners and their secretary, and be filed in the office of the clerk of Montgomery county; but said water commissioners, their employes, agents and servants, may enter upon any lands for the purposes of making such survey or maps, and upon the filing of such map said commissioners, their agents or servants, may enter upon any lands so designated for the purpose of prosecuting the construction of their works.

Map and survey.

§ 5. In all cases where the said water commissioners shall be unable to agree with the persons owning or having an interest in any lands, tenements or hereditaments required for the purposes of this act, the supreme court, at any special term thereof held in the judicial district in which said lands are situated, shall, on application of said water commissioners, after ten days' notice personally served on such persons, or where such notice cannot be personally served within the state, or such persons are infants or otherwise incapacitated from receiving personal notice, then by service in such manner as the court may direct, appoint three disinterested citizens of the county in which the lands are situated, who shall be freeholders, as commissioners of assessment to determine the damages sustained by each of such persons by reason of the taking of his or her lands, tenements or hereditaments for the purpose of this act. Such commissioners shall take the oath required by the constitution, and shall personally examine each parcel of land or other property to be taken or used, and shall estimate and report to the court at any term thereof held in said district the several sums which will be a just compensation to such owners or persons interested respectively for the appropriation to the purposes of this act of any property, rights or privileges that may be so required, or for the title or use of any such property. Such commissioners of assessment may examine witnesses upon hearings before them, and all evidence so taken shall accompany their report. Ten days' notice of the time and place of presentation of said report shall be given to the parties interested.

Proceedings to acquire title to real estate

On the presentation of said report, the said court may confirm or amend the same or appoint new commissioners who shall proceed in like manner as above directed, and whose report shall be final, and the court may modify and affirm the same as justice shall require. Said commissioners

Ibid.

of assessment shall receive from said water commissioners the sum of five dollars per day each for each day employed by them in performing their duties as above stated, together with the amount which said commissioners of assessment shall certify as correct in their said report, for incidental expenses connected with their work, including the preparation of their report; except when the owners or persons interested in the real estate or right or property acquired fail to have awarded them more than the amount of compensation offered them or him by said commissioners before the appointment of commissioners, then the said sums above provided shall be paid by such person or persons; and said water commissioners may pay the same and deduct the amount thereof from the sum awarded by the commissioners of assessment.

Payment
or deposit
of awards.

§ 6. Whenever any report of commissioners of assessment shall have been confirmed by said supreme court, the said water commissioners may deposit as said court may direct, or pay to said owner or such person or persons as the court may direct the sum mentioned in the said report in full compensation for the property so required. And thereupon the said village shall become seized in fee of the property so required, and the said commissioners and said village shall be discharged from all claim by reason of any such appropriation or use.

Commis-
sioners
may
borrow
money.

§ 7. The said commissioners shall have power, and it shall be their duty to borrow from time to time, upon the credit of the village of Amsterdam, a sum not exceeding ten per cent of the assessed value of the real and personal estate, of the valuation of said village, as shall appear by the last assessment-roll, upon such term of credit and at a rate of interest not exceeding six per cent per annum as shall seem to them for the best interests of said village; and to secure the payment of said loan said commissioners are authorized to make, execute and deliver bonds, certificates, or other obligations, which shall be signed by them, or any three of them, as said commissioners, which said bonds, certificates, or other obligations shall be made payable in such respective amounts and at such respective times as such commissioners shall deem best. And said bonds, and the interest thereon, shall be a valid liability against said village, and the credit of said village is pledged for the payment of the same, and the said money so borrowed shall be appropriated by said commissioners to supplying said village with water agreeably with the provisions of this act. But no such bonds, certificates, or other obligation shall be disposed of by such commissioners at less than the par value thereof.

Interest.

Bonds.

Official
bonds.

§ 8. No bonds, certificates or other obligation of indebtedness shall be issued by any board of commissioners authorized by this act until each of such commissioners, or such of them as shall accept the office, shall have filed with the clerk of the county of Montgomery a bond to said village in the sum of twenty thousand dollars with one or more sureties to be justified before and approved by the county judge of Montgomery county, or a judge of the supreme court, and conditioned for the faithful performance of his duties as such commissioner. And when the term of office of any such commissioner shall expire he shall hold his office as such commissioner until a new bond shall be given by his successor, which bond shall be in similar form and for a like amount as above provided, and to be justified, approved and filed in like manner. The joint and several bond of two or more of said commissioners may be filed in lieu of a separate bond for each, provided the same shall be approved as above, and each of the makers shall justify in the above amount.

§ 9. Said commissioners shall have power to make all necessary contracts for labor and material in the construction of the said work and all matters pertaining thereto, which contract shall be in writing, signed by a majority of said commissioners, and of which there shall be three originals, one of which shall be given to said contractor, one to the village clerk, and which shall be filed with the records of said village, and one retained by said commissioners, and public notice shall be given in one or more newspapers as the said commissioners shall direct of the times and places at which sealed proposals will be received for entering into contracts, and the commissioners shall have full discretion as to the acceptance or rejection of all sealed proposals, and in case any material or labor shall then remain uncontracted for, the like notice for sealed proposals and like proceedings may be had as above provided, and so from time to time as said commissioners may direct for work and materials. And every person who shall enter into any contract for the supply of materials or the performance of any labor shall give satisfactory security to said commissioners for the faithful performance of his contract according to its terms.

Contracts for labor etc.

§ 10. No commissioner or commissioners shall be interested, directly or indirectly, in any contract relating to the work or material therefor, nor in any work or material therefor, nor shall he receive any compensation for his services, but such incidental expenses as he or they may incur in the discharge of their duties, and which shall be certified to and allowed by said board of commissioners shall be paid to him or them out of funds in the hands of such board.

Commissioners not to be interested in contracts, etc.

§ 11. The said commissioners, and all acting under their authority, shall have the right to use the ground or soil under any street, highway or road within Montgomery county, or any county adjoining Montgomery, for the purpose of introducing water into and through any and all portions of said village of Amsterdam, on condition that they shall cause the surface of such street, highway or road to be re-laid and restored to its usual state, and all damages done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water-pipes upon like conditions.

Use of streets

§ 12. The said commissioners shall establish a scale of rents, to be charged and paid to the commissioners from time to time either in advance, or at such time or times as the commissioners shall prescribe for the supply of water to be called "water rents." And apportioned to the different classes of buildings in said village in reference to their dimensions, values, exposure to fires, ordinary and extraordinary uses for dwellings, stores, shops, hotels, factories, livery or private stables, and all other buildings, establishments and trades and other common purposes, yards, number of families or occupants or consumption of water as near as may be practicable, and, from time to time, either modify, amend, increase or diminish such rents. And said commissioners and their employees shall be, and are authorized at all times to enter any building or place where water is used from supply-pipes to examine as to the water, quantity used and the manner of using it.

Rents.

§ 13. Such regular water rents shall be collected from the owner or occupant of all such buildings, respectively, which shall be situate upon lots adjoining any street or avenue in said village, in which the distributing pipes are or may be laid, and from which they can be supplied with water, and said regular rents shall, like state, county and village taxes, be a lien and charge upon such houses, buildings and lots as herein provided, and may be enforced and collected by action in any

Collection of rents.

court, or in the same manner as now provided by law for the enforcement and collection of other taxes in said village.

Hotels,
etc., to
pay addi-
tional
rent.

§ 14. Hotels, factories, stables and other buildings and establishments which consume extra quantities of water shall pay, in addition to the regular rents, such sums as the commissioners shall direct, and which sum shall be paid as the said commissioners shall direct.

Expense
of con-
necting
pipes.

§ 15. The connecting and supplying pipes leading from buildings or yards to the distribution pipes shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted into or connected with the main pipe, until a permit therefor shall be obtained from said commissioners or some person or authority designated by them; and all such connecting or supply pipes shall be constructed, connected and maintained in the manner directed by said commissioners or some person or authority designated by them.

Superin-
tendent of
water
works.

§ 16. Said commissioners shall have power to appoint a superintendent of water-works, to define his duties and to fix his compensation. Said superintendent shall be subject to the control of said commissioners and shall be subject to removal at their pleasure.

Applica-
tion of
receipts
from
rents, etc.

§ 17. The entire annual receipts for water rents and charges, after deducting therefrom such sums as may be necessary to defray the expenses of repairs of said water-works and of extending or increasing the same, the expenses of said commissioners and other incidental and necessary charges and expenses incurred by said commissioners in the discharge of their duties as such commissioners, shall be applied toward the payment of the interest on the loans hereinbefore authorized, and also toward the creation of a sinking fund for the payment of the principal of said loan as it shall from time to time become due and payable, which sinking fund shall be managed by said commissioners. No investments shall be made in behalf of said sinking fund except in the bonds of the United States, of the state of New York, or of any city of this state, and in the bonds, certificates or other obligations authorized to be issued by said commissioners under this act; which last-named bonds, certificates or other obligations the said commissioners may purchase at any time when they shall have funds applicable, at prices not exceeding par value; and when so purchased, said bonds, certificates and obligations shall not be reissued, but shall be immediately canceled by said commissioners.

Sinking
fund.

Tax to be
levied
in case of
deficiency.

§ 18. In case the entire annual receipts for water rents and charges, after deducting as in the preceding section provided, shall in any year be not sufficient to pay the interest for that year on said loan, or in case in any year when any of the principal secured by said bonds falls due, the receipts from water-rents and charges after making said deductions together with the sum in the sinking fund shall not be sufficient to pay the said principal and interest falling due that year, then it shall be the duty of said commissioners to certify the amount of the deficiency to the board of trustees of Amsterdam village, the certificate therefor to be signed by the president and secretary of said water commissioners, and it shall thereupon be the duty of said board of trustees to cause such deficiency to be assessed, levied and collected, from the taxable property of said village of Amsterdam, in the same manner as other expenses of said village are assessed, levied and collected, and the same shall when collected be paid over to the said commissioners to be by them applied to the payment of such principal or interest, or both.

§ 19. The said commissioners shall annually on the first day of May make and file with the clerk of the town of Amsterdam a detailed statement of their accounts, a general statement of their work, condition of their affairs and state of finances, including a full detail of the amount expended in the progress of the work, and a statement of any deficiency as to the water rents and charges in meeting the principal and interest of the bonds, certificates or obligation falling due as hereinbefore provided. And said commissioners shall keep a correct and true book of account and of all their proceedings and transactions as commissioners.

Annual statement of accounts.

§ 20. All judgments against said commissioners in their name of office, and all judgments against them, or either or any of them, when the transaction upon which action was brought shall have been in the performance of their duty as commissioners, shall not be enforced against the individual property of either of said commissioners.

Judgment not to be enforced against individual property of commissioners. By-laws, &c.

§ 21. The said commissioners shall have power from time to time to make and establish such by-laws, rules and regulations not inconsistent with the laws of this state or of the United States as they shall deem proper for the election of their officers and as to the duties of their officers and employees, and as to the means of enforcing said duties, and to regulate the times and manner of holding meetings of commissioners, and for enforcing the collection of water rents and charges, and manner of using water, and generally for transacting, managing and directing the affairs of said commissioners, and to do all acts and take all measures necessary for the prompt, efficient and complete performance of their duties, and may provide regulations as to the use of water, and enforce observance thereof by cutting off the use and supply of water.

§ 22. Any person who shall willfully do or cause to be done any act whereby any work, material or property whatsoever erected or used by said commissioners, or under their control, within the village of Amsterdam or elsewhere, for the purpose of procuring or keeping a supply of water, shall be in any manner injured or interfered with, such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished accordingly.

Misdemeanor.

§ 23. Nothing herein contained shall be construed so as in any way to interfere with, or affect the rights or privileges of the Amsterdam Water-works Company.

§ 24. The said village of Amsterdam is hereby exempted from the provisions of chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five, entitled "An act to authorize the villages of the state of New York to furnish pure and wholesome water to the inhabitants thereof," and any and all acts so far as the same are inconsistent with this act are hereby repealed, so far as the same may relate to the village of Amsterdam.

§ 25. At any time after the passage of this act a meeting of the electors of said village may be called by the board of trustees upon notice published for two weeks in one or more newspapers published in said village at which the question shall be submitted whether the said commissioners shall be constituted a board or not. And whenever a majority of the electors of said village voting at any such meeting shall favor the constituting such commissioners as a board for the purposes of this act, such commissioners shall thereupon be constituted a board of commissioners, and enter upon the duties as hereinbefore provided, and such meetings may be called from time to time. The board of trustees, or any of them, shall act as inspectors of elec-

Question to be submitted to vote of village electors.

tion, and canvass the votes at such election, and make and file with the village clerk a certificate of the result, and the clerk of the village shall within five days thereafter serve each of said commissioners with a certified copy of said certificate. Said votes shall be by ballot, and there shall be written or printed on the ballots of those in favor of a board, "for the water commissioners," and on the ballots of those opposed, "against the water commissioners."

§ 26. This act shall take effect immediately.

CHAP. 102.

AN ACT to amend chapter two hundred and twenty-one of the laws of eighteen hundred and seventy-seven, entitled "An act authorizing the board of trustees of the village of Green Island to contract for a supply of water for public purposes."

PASSED April 14, 1881; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter two hundred and twenty-one of the laws of eighteen hundred and seventy-seven, entitled "An act authorizing the board of trustees of the village of Green Island to contract for a supply of water for public purposes," is hereby amended so as to read as follows:

Board of trustees may contract for water.

§ 1. The board of trustees of the village of Green Island are hereby authorized and empowered to contract with the West Troy Water-Works Company from time to time, for terms of not more than four years' duration, for a supply of water for public purposes in said village, at a rate not exceeding one hundred dollars per annum for each hydrant or public tap, but the number of hydrants or public taps shall not exceed twenty-five, unless such excess shall be authorized by a vote of the taxable inhabitants of said village in the manner provided for in the charter of said village for voting other taxes.

§ 2. This act shall take effect immediately.

CHAP. 103.

AN ACT to amend chapter eighty-seven of the laws of eighteen hundred and seventy-seven, entitled "An act authorizing the board of trustees of the village of West Troy to contract for a supply of water for public purposes."

PASSED April 14, 1881; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section one of chapter eighty-seven of the laws of eighteen hundred and seventy-seven, entitled "An act authorizing the board of trustees of the village of West Troy to contract for a supply of water for public purposes," is hereby amended so as to read as follows: