ACTS

OF

THE LEGISLATURE

OF THE

STATE. OF MICHIGAN,

PASSED AT THE

REGULAR SESSION OF 1873.

VOL. III.

LOCAL AND PERSONAL ACTS.

BY AUTHORITY.

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shall not be so construed that the Legislature shall not have power to authorize the establishment of some means for the passage of fish over the dam, or up the stream of Grand river: *Provided further*, That this act shall not be so construed as to cut off or bar any right of action already accrued against the owners of said dam by reason of the existence thereof. Proviso. Further proviso.

SEC. 3. This act shall take immediate effect.

Approved March 22, 1873.

[No. 321.]

AN ACT to authorize a board of Public Works in and for the city of Grand Rapids.

SECTION 1. *The People of the State of Michigan enact*, That there shall be constituted a board of public works, in and for the city of Grand Rapids, composed of five persons who shall be freeholders and qualified electors of said city, to be appointed by the mayor of said city of Grand Rapids; one to serve until the first Monday of May, eighteen hundred and seventy-four, two to serve until the first Monday of May eighteen hundred and seventy-five, and two to serve until the first Monday of May, eighteen hundred and seventy-six, and until their successors are appointed and qualified; such appointment shall be in writing, signed by the mayor, reported to the common council of said city, and be recorded in its record of proceedings, and notice of such appointment shall be given by the city clerk, forthwith, to the persons so appointed. The members first composing such board shall be appointed within ten days from the time this act shall take effect, and the persons appointed and accepting membership in said board of public works shall take the oath of office prescribed for city officers, within one week from the date of their appointment, and meet and organize the board within one week after they shall have qualified as aforesaid. Board of public works. Term of office of first board. Appointment of. Oath of office and organization.

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Election of officers.

SEC. 2. The said board shall elect one of its number president, and one of its number executive member of said board, to act as such until their successors are appointed by said board, and in case of vacancy in either of such offices the board may appoint others. The executive member of said board shall devote whatever time may be necessary to properly and efficiently superintend, carry forward, and see executed, all work in charge of or under control of said board, under the direction thereof, and shall prepare plans, specifications, estimates, and other work proposed for the consideration of said board. For his services such executive member shall receive as compensation from the city of Grand Rapids five dollars per day for such time as he shall actually devote to the duties of his office, payable monthly from the general fund of said city. The other members of said board shall be advisory members of the board, and discharge such duties and functions as appertain to the consideration and decision of questions and business before the board. They shall receive at the rate of three dollars per day for actual time while attending as members upon the sessions of said board, but for no other services or time. The executive and advisory members shall make and verify their accounts for services, charging at the rates aforesaid, for full days, and for half days at corresponding rates, and thereupon it shall be the duty of the common council to allow and order payment for such services from the general fund of said city: *Provided,* The advisory members shall respectively receive pay for not more than one hundred days in any one year, and for no greater number of days than they shall actually serve.

Duties and compensation of executive member of board.

Duties and compensation of other members.

Proviso relative to compensation of advisory members.

Annual appointment of members.

SEC. 3. Annually after the year one thousand eight hundred and seventy-three, on the first Monday of May, or within ten days thereafter, the mayor of the city of Grand Rapids shall appoint, as hereinbefore provided, to membership in said board of public works, one or more persons, as the case may require, to serve for the period of three years, and until their successors

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are appointed and qualified, in place of those whose term of office will then expire. Vacancies occurring in said board by removal from said city, resignation, or otherwise, shall be filled for the unexpired term by the mayor's appointment. All appointments to membership shall be made in the manner required in section one. Said board of public works shall have power to make all such by-laws, rules, and regulations as may be necessary or expedient for the conduct of its business and that of the executive member of the board, not inconsistent with this act. The city of Grand Rapids shall provide the board with suitable office room for its meetings and business uses, and supply record books, stationery, and other things necessary for the transaction of the public business in charge of said board. All accounts for rent, and other necessary expenses incurred by said board, shall be presented to the common council, whose duty it shall be to audit the same, and order paid in like manner as other accounts against the city, on proper proof of the correctness of such accounts.

Vacancies.

Power of board to make by-laws, etc.

City to provide suitable office-room, books, etc.

Accounts for expenses to be audited by council.

SEC. 4. Any member of said board may at any time be removed by the mayor and common council of said city, for official misconduct, or for the unfaithful or inefficient performance of the duties of his office; the proceedings in that behalf shall be entered in the record of its proceedings: *Provided*, That a copy of the charges against such member sought to be removed, and notice of the time and place of hearing the same, shall be served on him ten days at least previous to the time so assigned, and opportunity be given him to make his defense.

Removal from office.

Proviso.

SEC. 5. No member of said board shall hold any elective office under the charter of said city during his continuance as member of said board, and his election to any office in said city by the people, which he shall not forthwith resign, shall be deemed a resignation of membership, and shall vacate his office in said board. No member of said board shall be per-

Members not to hold any elective city office.

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Not to be interested in certain contracts.

sonally interested, either directly or indirectly, in any contract for any public work in said city, under the control of said board, nor in the purchase, sale, or disposition of any material to be used or applied in or about any public work or improvement under the control of said board.

Power of board to establish grade lines, locate sewers, etc.

SEC. 6. Said board of public works is hereby empowered to determine and establish the grade lines of all streets, highways, lanes, alleys, sidewalks, and public grounds in said city, and to locate all necessary sewers, drains, culverts, vaults, arches, and bridges, wells, pumps, and reservoirs in said city; to cause to be graded, graveled, paved, planked, or covered with other materials, all such streets, highways, lanes, alleys, sidewalks, and public grounds in said city; and to construct all such main and lateral sewers, drains, culverts, vaults, arches, and bridges, wells, pumps, and reservoirs in said city, as the common council of the city of Grand Rapids shall by resolution declare to be necessary improvements. But before any contract for such work or improvement shall be let, the cost and expense thereof, as estimated and reported by said board of public works to the common council, shall be assessed, or otherwise provided for by said common council, in the manner authorized by law: *Provided*, That when any street, highway, lane, or alley has been graded, graveled, paved, planked, or covered with other materials, and the grade line thereof established, the same shall not again be changed, graded, graveled, or paved, unless declared to be a necessary improvement, by a concurrent vote of a majority of all the members elect of said common council, upon petition by a majority of all the property owners on said street, resident in said city: *Provided*, That nothing in this section, or any law of this State shall prevent any given portion of any such street, highway, lane, or alley from being further improved by grading, graveling, or paving, whenever a majority of all the property owners on any such given portion of such street, highway, lane, or alley, resident in said city, shall petition therefor, and

Cost of improvements to be provided for before letting contracts.

Proviso relative to streets already graded, etc.

Proviso relative to improvement of portions of streets, etc.

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the common council shall, by a vote of a majority of all the members elect, declare the grading, graveling, or paving of such given portion of such street, highway, lane, or alley to be a necessary improvement: *And provided*, That nothing herein contained shall prevent such repairs as may be deemed necessary to keep and maintain such streets, lanes, and alleys in good condition, the cost and expense whereof shall be raised and provided or met, as the common council may order.

Nothing in act to prevent necessary repairs.

SEC. 7. Said board of public works shall have charge and control of the erection and construction of engine houses, city hall, and other public buildings, except school houses, in said city. In the erection of public buildings, and in the grading, graveling, paving, planking, or covering with other material any street, highway, lane, alley, or public ground, and in constructing sewers, drains, and other public works or improvements, including works for supplying said city with water, said board shall advertise for proposals to execute the work, and for materials, according to plans and specifications adopted by said board, and may contract with the lowest responsible bidder: *Provided*, Said board shall require security for the performance of proposals tendered to said board, if the bid is accepted, and security for the performance of contracts: *And provided*, It shall be at the option of the board to reject any or all bids or proposals made; and if all bids are rejected, shall thereupon re-advertise for proposals to execute the work, and for materials, as often as may be necessary, unless some responsible party will take the contract at the lowest bid previously offered, which the board may accept, if, in their judgment, for the best interest of the city.

Power of board in the erection of public buildings.

Contracts for public improvements to be let to the lowest responsible bidder.

Proviso relative to security.

Proviso relative to rejection of bids, and re-advertising.

SEC. 8. When the common council of said city decide that the construction of any public work in said city is a necessary improvement, the board of public works, with all convenient dispatch, shall determine as to the particular kind and quantity of materials to be used therefor, and estimate the probable cost and expense of such work, and of the material to be

Board to determine kind of materials, to estimate cost of work, etc.

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used in detail, and cause to be prepared, so far as necessary, plans and specifications for such work, and report their estimate to the common council as a basis for assessing or otherwise raising, according to law, the funds necessary to enable the board to go forward and complete such work.

Improvement of streets, construction of sewers, etc., to be under charge of board.

SEC. 9. The paving, grading, graveling, planking, or covering with other materials of all streets, highways, alleys, lanes, sidewalks, and other public places; the building and construction of all sewers, drains, culverts, arches, and bridges, wells, and reservoirs, and the erection of public buildings and works which the council shall, by resolution, declare to be necessary improvements, shall be done under the direction and supervision of the board of public works, and upon contracts and under specifications to be prepared by the executive members thereof, and approved by such board; and all moneys raised or appropriated by the common council for such purposes shall be expended by said board of public works for the purposes designed so far as shall be necessary, and be drawn from time to time from the appropriate fund, by order of the council, upon estimates of amounts earned or payable, to be made by the board and reported to the council; and no money shall be drawn from the city treasury, under this act, except upon the order of the common council.

Moneys appropriated for such purposes, how drawn and expended.

City liable on contracts of board.

SEC. 10. The city of Grand Rapids, and not the board of public works, shall be liable on all contracts made by the board of public works in accordance with law. All the matters aforesaid in this act mentioned, shall be deemed public improvements, within the meaning of this act.

Office of city surveyor abolished.

Board may employ a surveyor.

Compensation.

SEC. 11. The office of city surveyor of the city of Grand Rapids is hereby abolished, and the board of public works is hereby authorized to employ some suitable person as surveyor, and such assistants as necessary, who shall receive such compensation for services as is now or as may hereafter be provided by law or by the common council; but if no compensation shall be provided by the common council, the board of public

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works may fix the compensation of such surveyor and assistants; or, if the compensation fixed by the common council shall, in the opinion of the board be wholly inadequate, they may increase the same, and it shall be the duty of the common council to order the surveyor and his assistants paid for all services rendered. Such surveyor shall perform such other services as may be required by the common council.

Report of board.

SEC. 12. The common council may, at any time, by resolution, call upon said board of public works to furnish and report a statement showing the condition, progress, and operations of any work or improvement being carried forward under, or commenced by, said board, and it shall be the duty of such board to make such report without unnecessary delay.

Power of board relative to supplying city with water.

SEC. 13. Said board of public works is hereby authorized and empowered to cause the city of Grand Rapids and its inhabitants to be supplied with water, and to procure such supply from any source or sources within or without the limits of said city; to determine the kind and quantity of power and machinery required therefor, the pipes, conduits, and reservoirs to be used, and the manner and extent of distribution in said city. Said board may contract for constructing all necessary works, the doing of all necessary labor, and for the purchase and manufacture of all necessary material appertaining to procuring, storing in, and furnishing to said city and its inhabitants a supply of water. Said board may purchase and lease lands, water rights, and other privileges deemed necessary in effecting such supply; they may lay pipes in the streets and public grounds, lanes, and alleys of said city, and establish and erect fire-hydrants and public hydrants, jets, and fountains. Said board of public works shall establish the rates to be paid by consumers of water, and the terms and conditions upon which consumers of water, furnished by said water works, shall be entitled to be supplied: *Provided*, That, before any contract for constructing said water works and furnishing materials therefor shall have been entered into,

Proviso.

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the common council shall provide the means to meet the estimated cost thereof.

Board to estimate cost of water works, etc.

SEC. 14. The board of public works shall make an estimate of the cost and expense of such water works, and of the materials necessary to be used therein, and report the same to the common council; and thereupon it shall be the duty of the common council to provide the means or funds to meet the cost and expense of the same, according to such estimate, in the manner provided by law: *Provided*, That the existing provisions of law in reference to submitting to a vote of the electors of said city any matters involving supplying said city with water shall not be deemed to be affected by any provision of this act.

Council to provide means to meet expense.

Proviso.

Collection of water-rates.

SEC. 15. Said board shall have power to cause to be collected the water rates, all of which shall be paid into the city treasury; they shall have power to employ such collector, superintendents, engineers, and laborers as may be necessary in the collection of water rates, and in the care, management, and maintenance of such works, and to fix their compensation. They shall make needful rules and regulations for the collection of water rates, and may enforce payment by cutting off supply to the consumer, and deprive such consumer of a supply from such works until arrearages of water rates are paid, and may enforce payment by suit, in the name of the city, in any court of competent jurisdiction.

Rights and powers of board relative to the performance of contracts.

SEC. 16. Said board shall reserve the right, in all contracts, to determine finally all questions as to the proper performance of such contracts, and as to the completion of the work specified therein, and in case of the improper, dilatory, or imperfect performance thereof, to suspend the work at any time, to order the partial or entire reconstruction of the same, if improperly done, or to re-let the work covered by such contract, or any unfinished portion thereof, whenever, from unreasonable delay in the work, or for other just cause, they shall deem such contract forfeited; and power is hereby given

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to said board to determine all such questions arising under any such contract according to the true intent and meaning thereof.

Authority to make surveys and agree on damages to property.

SEC. 17. The said board, and, under its direction, their agents, employes, and workmen, are hereby authorized to enter upon any land or water within or without the limits of said city of Grand Rapids, for the purpose of making surveys, and to agree with the owner of any property, rights, or privileges which may be required for the purpose of obtaining or conveying a supply of water to, in, or through said city, as to the amount of compensation to be paid to such owner. And in case of disagreement between the board and the owner of any property, rights, or privileges, which may be required for said purpose, or affected by any operation connected therewith, as to the amount of compensation to be paid to such owner, or in case such owner shall be an infant, or insane, or absent from the State, proceedings shall be had therein as is or may be provided in the charter of the city of Grand Rapids for opening streets through improved or unimproved real estate, as near as may be, and when the amount found and reported as damage shall be paid into the city treasury by the common council, for the owners, the said board shall have the right to occupy so much of said land as is covered by the award or report, for all purposes contemplated by the proceedings, and the person in whose behalf said award is made or reported shall be entitled to draw the amount from the city treasury, upon giving receipt thereof, expressing therein that such sum is in full for all damages in the premises.

Proceedings when agreement cannot be made.

Penalty for willfully polluting water, or injuring water works.

SEC. 18. If any person shall willfully do, or cause to be done, any act whereby any work, material, or property whatsoever, selected or used within the city of Grand Rapids, or elsewhere, for the purpose of procuring or keeping a supply of water for said city, shall in any manner be injured, or shall willfully pollute any water, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less

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than fifty dollars, nor more than one thousand dollars, or by imprisonment for not less than thirty days, nor more than three years, or by both such fine and imprisonment, at the discretion of the court.

Idem. SEC. 19. If any person shall, without the authority of said board of public works, as delegated through any of their agents, perforate or bore, or cause to be perforated or bored, any reservoir, distributing pipe, or main belonging to the works of said city, or make, or cause to be made, any connection or communication whatever with the said reservoir or pipes, or dig up or molest the same, every person so offending shall for such offense be subject to a fine in a sum not exceeding fifty dollars, or imprisonment not exceeding thirty days, and costs of prosecution, which suit or prosecution may be brought in the name of the city of Grand Rapids, in the recorder's court, or in any other court of competent jurisdiction.

Idem. SEC. 20. Any willful interference by any person with any part of the water works of said city, designed to diminish or prevent a supply of water for extinguishing fires, the person so offending shall be deemed guilty of a misdemeanor, and, upon conviction before any court of competent jurisdiction, shall be punished by a fine not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the State prison of this State not less than one year nor more than five years, or by both such fine and imprisonment, in the discretion of the court.

Contracts, by whom signed, etc. SEC. 21. All contracts made by said board of public works shall be in the name of the city of Grand Rapids, and be signed by the president and executive member of said board, after the same shall have been approved by the board. Said board of

Prosecution of suits by board. public works is hereby authorized to commence and prosecute, in the name of said city, any suit or proceedings for the recovery of any penalty or forfeiture incurred by any person under the provisions of this act, or for damages for breach of any contract authorized to be made and entered into by said

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board, or to enforce the performance of any such contract, and to enforce obedience to the provision of this act. The city attorney shall be the legal adviser of said board, and he shall perform such services as may be required of him in connection with the duties of the board. City attorney legal adviser of board.

SEC. 22. The board of public works shall keep a record of their proceedings and determination, and therein shall be shown the vote of each member voting upon every question brought before and decided by said board, which record shall at all times be open to public inspection. A majority of said board shall form a quorum for the transaction of business, but a majority of all the members shall be necessary to decide questions before the board. All bonds and contracts shall be filed and preserved in the office of the board. Board to keep a record of proceedings. Quorum. Bonds, etc., to be filed.

SEC. 23. Said board shall, in their discretion, have power to repair, extend, and improve, the main and distributing pipes in said city, whenever means are provided for such purpose, and may also provide additional supply as the same shall be needed. Power of board to repair water pipes and increase supply.

SEC. 24. In all cases when land in said city shall hereafter be subdivided into lots and blocks, or either, and into streets, alleys, or public grounds, the map or plat thereof shall be submitted to said board of public works for their approval, and no such map or plat shall be recorded or have any validity until approved by said board, and be certified, by indorsement on said map or plat, signed by the executive member thereof, of which map or plat, a copy shall be placed on file in the office of said board. Plats, etc., to be approved by board.

SEC. 25. Said board shall have authority to make and enforce such rules and regulations in reference to tapping or making connection with sewers, for draining lots or premises, as they may deem for the public interest; and any person tapping or making connection with any public sewer in violation of such rules and regulations, unless otherwise permitted by the board, shall be liable to a fine of twenty-five dollars and Board may make rules relative to tapping sewers for draining lots. Penalty for violation of rules.

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cost of prosecution, to be recovered in the name of the city in any court of competent jurisdiction, and shall in addition be liable to the city for all damages caused by such unlawful interference.

Relative to injury resulting from negligence of contractors in doing work.

SEC. 26. If any contractor shall fail to keep up sufficient fence or protection guards to prevent damage or injury to persons or property, or shall be guilty of other negligence, in doing work under contract, and injury to persons or property shall occur by reason of such default or negligence, the contractor guilty of such default or negligence shall be liable to the person injured in person or property for the damage sustained, to be recovered with costs in the proper form of action in any court of competent jurisdiction.

Relative to the completion of contracts heretofore entered into.

SEC. 27. No contract heretofore lawfully entered into by any person or persons for doing any public work in said city, shall be affected by this act, but the work may be prosecuted thereunder. It shall be the duty of the board of public works to superintend the doing of the uncompleted work under all such contracts, estimate the work done and certify the same to the common council, and also to examine and certify as to the completion of the work under contract; but the common council shall have the same powers, in reference to such contracts, whenever questions of difference arise in relation thereto, as if this act had not been passed.

Provision for payment, from time to time, of amount earned on contracts.

SEC. 28. It shall be the duty of the board, from time to time, to make estimates of the amount earned and payable upon any contract for public works or materials connected therewith, and report the same to the common council; and thereupon it shall be the duty of the common council, without unreasonable delay, to order payment from the proper fund of the amount so reported.

City clerk to be clerk of board; his duties as such.

SEC. 29. The city clerk shall be the clerk of said board, and in person or by deputy, attend upon the sessions of, and record the business transactions of the board; keep account books, and enter therein all receipts and expenditures touching public

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improvements under control of the board, and all receipts and expenditures connected with water works and water rates, and discharge such other duties appertaining to such records and accounts as the board shall require. The common council of said city shall have power to appoint one or more deputies of the city clerk, and fix the compensation of any such deputy. Every person so appointed shall have power to discharge the duties devolving by any law upon the city clerk. The board of public works shall have power to employ all necessary agents and employes, not otherwise provided for in this act, and fix their compensation.

Appointment, compensation, etc., of deputies of city clerk.

Power of board to employ agents.

SEC. 30. The common council shall have power to require each of the members of the board of public works to give bond, with good and sufficient sureties, for the faithful performance of the duties of his office, and faithfully to account for and pay over to the city treasurer all moneys which shall come into his hands as a member of said board. Such bond shall run to the city of Grand Rapids, be in such penalty as the common council shall fix by resolution entered on their minutes, and be approved by the mayor. If the mayor approves the sureties, he shall indorse his approval on said bond, and it shall then be filed with the city treasurer for safe keeping. If any member of said board shall neglect or fail to give such approved bond within ten days after being notified of the passage of the resolution requiring such bond and fixing the penalty, he shall be deemed to have resigned and vacated his office as a member of said board, and the vacancy so created may be filled by appointment by the mayor, as in other cases.

Bonds to be given by members of board.

Approval of sureties by mayor, and filing of bonds.

Failure to give bond to be deemed resignation of office.

Vacancies so created, how filled.

SEC. 31. The board of public works may require any person employed by them to give bond to the city of Grand Rapids in such penalty, and with such sureties as said board shall fix and approve, for the faithful performance of such services and duties as may be required of them by the board, and to pay over all money which shall come into the hands of such employes.

Bonds of persons employed by board.

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Acts repealed.

SEC. 32. All acts and parts of acts, so far as the same are inconsistent with the provisions of this act, are hereby repealed.

SEC. 33. This act shall take immediate effect.

Approved March 22, 1873.

[No. 322.]

AN ACT to enable the village of New Baltimore, in Macomb county, to erect a school-house from moneys given or devised to the same for that purpose.

Moneys given or devised may be accepted.

SECTION 1. *The People of the State of Michigan enact*, That it shall be lawful for the village of New Baltimore, in Macomb county, to accept and receive any moneys that may have been given or devised, or that may hereafter be given or devised to said village, to be used in the erection of a school-house, and therewith to purchase a site for such school-house, and erect thereon a suitable school building.

Village may lease school building to district.

SEC. 2. The said village is hereby authorized and empowered to lease any school building erected as above provided, to the school district known and designated as Lake District.

Regulations to secure the construction etc., of school-house.

SEC. 3. The common council of said village are hereby authorized and empowered to make such regulations, by ordinance or otherwise, as they shall deem necessary to secure the proper construction of such school-house, and the leasing of the same as above provided for.

SEC. 4. This act shall take immediate effect.

Approved March 22, 1873.

[No. 323.]

AN ACT to provide for the construction of a State road in the county of Newaygo.

Commissioner to establish and improve State road.

SECTION 1. *The People of the State of Michigan enact*, That John H. Simmons, of the county of Newaygo, be and is hereby appointed commissioner, with full power and authority to lay

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