

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
NINETY-SECOND SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY FIFTH, AND ENDED MAY TENTH, 1869,
IN THE CITY OF ALBANY.

VOL. I.



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Chap. 97.

AN ACT to reorganize the Board of Water and Sewerage Commissioners of the city of Brooklyn, and to provide for the repaving, repairing and cleaning the streets of said city by said board.

Passed April 2, 1869 ; three-fifths being present.

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

Appoint-
ment of
board of
water and
sewerage
commis-
sioners.

SECTION 1. The mayor, comptroller, corporation counsel and city treasurer of the city of Brooklyn, or a majority of them, shall meet in the mayor's office in the city hall, Brooklyn, within twenty days after the passage of this act, and they, or a majority of them, shall appoint four citizens, residents of the city of Brooklyn, to act as water and sewerage commissioners of said city of Brooklyn; and the persons so appointed shall, after their appointment and qualification as hereinafter provided, form the permanent board of water and sewerage commissioners for the city of Brooklyn, and shall hold their offices for the terms herein after mentioned, and until their successors shall be appointed and shall qualify; and the term of office of the present water and sewerage commissioners of said city shall, upon such appointment and qualification, cease and determine.

Term of
present
commis-
sioners to
expire up-
on such
appoint-
ment.

Oaths of
office and
official
bonds of
commis-
sioners.

§ 2. The persons so appointed, before entering upon their office, and within ten days after their appointment, shall qualify as follows: They shall each subscribe and file in the office of the clerk of said city an oath of office and execute to the city of Brooklyn, and file in said clerk's office, a bond with two or more sureties in the penal sum of twenty thousand dollars, conditioned for the faithful performance of his duties and for the faithful accounting for all moneys which may come into his hands, and which said bond shall be approved of as to form and manner of execution, and as to sufficiency of the sureties, by one of the justices of the supreme court of the second judicial district, or by the county judge of the county of Kings. And in case any of such persons

Approval
of bonds.

so appointed shall fail to qualify or enter upon the duties of his office, or in case for any reason the said the mayor, the comptroller, the corporation counsel and city treasurer, or a majority of them, shall fail to meet or make the appointments hereinbefore directed on the day herein before named, then it shall be competent for the said the mayor, the comptroller, the corporation counsel, and the city treasurer, or a majority of them, and they are hereby directed to meet as soon thereafter as possible, make said appointments, and fill any vacancy occasioned by the failure to qualify of any person theretofore appointed.

Appoint-
ments in
cases of
failure to
qualify, &c.

§ 3. The persons so appointed, after they shall have duly qualified, shall form the permanent board of water and sewerage commissioners and shall have all the rights, privileges, authority and power now vested by existing laws in the present board of water and sewerage commissioners, and all acts, contracts and proceedings already commenced and now pending shall be fully continued, completed and performed by the board of commissioners created by this act as fully and with the same force and effect as if the same were continued, completed and performed by the present board were this act not passed.

Rights and
powers of
commis-
sioners.

§ 4. The persons so appointed, within thirty days after their appointment, and in the presence of the said the mayor, the comptroller, the corporation counsel and the city treasurer, or a majority of them, shall draw lots for their terms of office, which shall respectively expire on the first Mondays of July, eighteen hundred and seventy-three, eighteen hundred and seventy-five, eighteen hundred and seventy-seven and eighteen hundred and seventy-nine; and the city officers so present at said drawing, or a majority of them, shall certify the same to the city clerk. And after the expiration of said respective terms, the persons thereafter appointed as such commissioners shall hold their office respectively for the term of eight years from the said first Monday of July on which their predecessors' term shall respectively expire.

Drawing
for terms of
office, and
their classi-
fication.

Full term
of office to
be eight
years.

§ 5. The said mayor, comptroller, corporation counsel and city treasurer, or a majority of them, shall have

Vacancies,
how filled.

power to fill any vacancy occurring in the said board, and the person or persons so appointed shall hold office respectively for the balance of the term of the person or persons in whose place he or they shall have been appointed; and in every year in which any vacancy shall occur by expiration of the regular term of any member of said board, it shall be the duty of the said mayor, comptroller, corporation counsel and the city treasurer, or a majority of them, on the first Monday of June, or as soon thereafter as possible, to meet in the mayor's office, in the city hall, and appoint a person to fill the vacancy which will occur by the expiration of said term. All persons appointed as members of said board shall, before entering upon their duties, file the oath of office and bond hereinbefore required.

Powers of board, as to work upon streets, side and cross-walks.

§ 6. The said board shall have exclusive power to cause streets to be repaved, regraded and repaired; to cause cross-walks to be relaid and sidewalks to be reflagged, and generally to have such other improvements in and about such streets so to be repaved, regraded or repaired, to be made, as in their judgment the public wants and convenience shall require; the expense of all such improvements, in cases where such expenses shall exceed two hundred and fifty dollars, and in cases of repairs, shall be assessed and be a lien upon the property benefited thereby in proportion to the amount of such benefit, and in all other cases shall be a general city charge.

In what cases improvements shall be a lien upon property.

§ 7. Before any work of repaving or regrading any street shall be done, or contract for doing the same, either in whole or in part, be executed, the said board shall fix a limit or district of assessment for the payment of the expense thereof, and beyond which no assessment shall be made. The resolution fixing the same shall be published in the corporation newspapers for two weeks, and a notice attached thereto that remonstrances against such district will be considered if filed with the city clerk before a time to be specified, not less than twenty days after the first publication of said notice. At any time after the said last mentioned time the said board may confirm and, in case of remonstrances filed in pursuance of such notice, may amend or alter

District of assessment to be fixed before work shall be done.

Resolution fixing same to be published.

District may be amended before confirmation

the district originally fixed by them, and such determination shall be conclusive.

§ 8. The said board are authorized to have the said improvements carried out in such form and manner as they shall deem to be for the best interest of the public, and either under their personal supervision, or under the supervision of a superintendent whom they are hereby authorized to appoint, or by contract; but no contract shall be made for work the expense of which shall exceed two hundred and fifty dollars, unless advertisement for proposals for doing such work shall be made in the corporation newspapers for at least twenty days; and, in such case, any contract shall be awarded to the lowest responsible bidder, whose proposal shall, in the judgment of said board, be the most beneficial to the public, and who shall give satisfactory security.

Improvements may be done by contract or otherwise.

Proposals for work, how advertised and awarded.

§ 9. The said board shall file with the comptroller of said city a certified copy of the resolution under which any local improvement is directed to be made, and statements from time to time of the cost thereof as they may require funds to make payments for the cost thereof, which statements may be at any time corrected or amended; and, if the said work be done by contract, then also a certified copy of such contract, and such statement, resolution and copy contract, shall, in the case of work done by contract, be filed within ten days after the execution of such contract.

Copies of resolutions ordering work and contract to be filed with Comptroller.

§ 10. For the purpose of providing the necessary funds and paying for the work herein above referred to, the comptroller is authorized and directed to pay on the requisition of said board, to be signed by the president and secretary for the amount of all work done under its personal supervision or that of its superintendent, at such times and manner as said board shall require. When such work shall be done under contract however, the said comptroller is authorized and directed to pay to the contractor or his assigns from time to time as the work progresses (but not oftener than once in each month), seventy per cent of the estimated value of the work actually done under said contract, until the same shall be completed, such estimate to be made by said board or such superintendent or inspector as they may

Payments for work, how made by Comptroller.

Payments to contractor.

Final payments upon contracts.

Payments to city surveyors.

City assessment bonds authorized.

When payable.

Rate of interest.

Assessments, defaults, &c., made applicable to payment of bonds.

Comptroller to keep account of bonds and unpaid assessments.

City assessors to apportion and assess expenses of improvements.

direct. Upon the final completion of any contract to the satisfaction of said board and the filing of a resolution accepting such work, the comptroller shall within thirty days thereafter pay to the contractor or his assigns the balance due on said contract which shall be estimated by said board and the amount specified in said resolution. The comptroller is also authorized and directed to make payments in like manner to any city surveyor who may be employed by said board in relation to such work, of his fees as fixed by ordinance.

§ 11. For the purpose of furnishing the money required to make the payments mentioned in the preceding section, the mayor, comptroller and city clerk of said city are hereby authorized and directed from time to time, as may be necessary, to issue under the city seal assessment bonds payable at the expiration of three years, with interest not exceeding seven per cent per annum payable semi-annually, which bonds shall be sold and the proceeds used according to the provisions of the preceding section, and for no other purpose. The amounts collected from any and all assessments levied and confirmed under the provisions of this act, together with all defaults and interests on the same, are hereby specially appropriated and set apart for the payment of the principal and interest of the bonds mentioned in the preceding section; and there shall also be added to every assessment levied under the provisions of this act, a sufficient sum to pay the interest on all payments made on account of the improvement.

§ 12. It shall be the duty of the comptroller of said city to keep an account of the bonds to be issued under the provisions of this act, and he shall make detailed accounts to the common council of said city annually, and oftener, if required, of the whole amount of assessment bonds issued, and the amount of assessments remaining unpaid at the time of his said report.

§ 13. After the completion of any local improvement, the said board of water and sewerage commissioners shall, by resolution, direct the board of assessors of the city of Brooklyn, and it shall be the duty of said assessors immediately to apportion and assess the expense thereof as may be fixed by the said board of water and

sewerage commissioners, including a reasonable allowance for interest, inspectors' and surveyors' fees, and for fees of city officers, together with three per cent for expenses for collection upon the several pieces or parcels of land and premises in the judgment of said board of assessors benefited by said improvement not beyond the district of assessment when one shall have been fixed as aforesaid.

§ 14. The board of assessors shall make a report in writing of the assessment so to be made by them, and shall give notice in the corporation newspapers of the city that they have made the same, which notice shall be published for ten days successively, of the time and place, when and where the parties interested can be heard, and after such date the said board shall proceed to review the same, and may amend or alter the said report in such manner as they may think just, any alterations to be noted by them; and they shall complete and confirm the same, and the determination so made by them shall be conclusive, and at the expiration of twenty days thereafter, the assessments therein made shall be respectively liens upon the property assessed, and which lien shall have priority over all other liens and incumbrances. Whenever any of the lots, pieces or parcels of land so benefited, shall be under water and belong to the State, the said board of assessors shall, in respect to such land, make such assessment on the right, interest and claim to and in the said land, of the person or persons who may be entitled to a grant of such lands from the Commissioners of the Land Office. And all the provisions of this act applicable to said improvements, and the collection of the assessments therefor, shall apply to such right, interest and claim, and to the persons entitled to the same. Nothing herein contained shall be construed so as to affect the title of the State in or to the said lands; but any person or persons who shall take the title to said lands from the State, and while the same remains unpaid, shall take the same subject to the lien of said assessments, provided that the provisions herein contained shall be deemed to apply to lands under water, lying in the eighth, tenth and

Notice of hearing and review of assessment.

Alteration and confirmation of assessments.

Assessments to be liens upon property assessed.

Provision as to lands under water.

Title of State to lands under water not to be affected.

Purchasers of such lands, to take same subject to liens.

twelfth wards of the city of Brooklyn, and to none others.

Correctness of assessment report to be certified by corporation attorney.

§ 15. Before the board of assessors shall complete and confirm any report, the assessment shall be examined by the attorney and counsel of the city, and he or his assistant shall certify as to the correctness of the proceedings and he may reject the same if he find legal irregularity therein, and the said board of assessors shall, upon receiving a certificate of such rejection, proceed to take new proceedings as if they had made no report. The attorney and counsel shall also certify as to the sufficiency of the proceeding for a local improvement previous to the making of any contract or paying any money, which certificates shall be included in the assessment roll. But it is hereby declared that the provisions of this section are simply for the protection of the city, and that the failure to carry out any of them shall not affect the validity of any assessment, neither shall any assessment be invalid because the correct name of any owner or property assessed shall not be stated.

Sufficiency of proceedings for local improvements to be certified in like manner.

Proviso as to validity of assessments.

Repairs and cleaning of streets.

Work may be done by contract or days' work.

Advertisement for proposals, how advertised.

Contracts, how awarded.

In what cases contracts may be awarded without advertisement.

§ 16. The board of water and sewerage commissioners shall have exclusive power and authority in relation to the repairs to and cleaning of the streets of said city. The said board is authorized to have such work done in such manner as they shall deem to be for the best interest of the city, and to cause the same to be done by days' work, either under their personal supervision or that of a superintendent, whom they are hereby authorized to appoint, or by contract; but no contract shall be made for work the expense of which shall exceed two hundred and fifty dollars, unless advertisement for proposals for doing such work shall be made in the corporation newspapers for at least ten days, and in such case any contract shall be awarded to the lowest responsible bidder whose proposal shall, in the judgment of said board, be the most beneficial to the public, and who shall give satisfactory security. But in case of dangerous breaks in any street caused by storm, accident or flood, they may by unanimous vote award a contract for doing such work without such advertisement.

§ 17. The said board shall report to the mayor what amount is necessary to do the work of repairing and cleaning the streets of the city, and which amount shall be a charge upon the city at large, and shall be raised in the taxes levied in said city for the next fiscal year.

Tax for repairs and cleaning of streets.

§ 18. The said board may appoint, during pleasure, a chief engineer and assistants, and such and so many superintendents, subordinate officers and employees as the carrying out of the provisions of this act may require.

Chief engineer and assistants.
Superintendents, &c.

§ 19. The members of the said board shall each receive an annual salary of five thousand dollars, payable quarterly.

Salary of commissioners.

§ 20. All provisions of law in relation to the collection of local assessment in the city of Brooklyn, and sales for the non-payment of the same, shall apply to all assessments levied under this act for any of the purposes therein mentioned.

Acts relative to local assessments made applicable.

§ 21. All acts or parts of acts inconsistent herewith are hereby repealed.

Repeal.

§ 22. This act shall take effect immediately.

Chap. 98.

AN ACT to legalize and confirm the acts of the Board of Trustees of the village of Rome, in determining the terms of office of the Trustees of said village.

Passed April 2, 1869; three-fifths being present.

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

SECTION 1. The acts of the board of trustees of the village of Rome, on the fourteenth day of April, one thousand eight hundred and sixty-eight, in determining the terms of office of the trustees of said village elected at the election of officers in said village on the first Tuesday of April, one thousand eight hundred and sixty-eight, are hereby legalized, ratified and confirmed, and the same are hereby declared to have the same effect as if performed and executed on the day after such elec-

Action of trustees confirmed.