

CHAPTER 432

WATER-WORKS, WATER MAINS, AND APPURTENANCES

432.02 WATER-WORKS; SPECIAL TAX FOR MAINS.

A village desiring to transfer money from the water and light fund to the general fund, may do so by a resolution authorizing such transfer, which resolution must be adopted by both the water, light, power and building commission, and by the village council. OAG Oct. 25, 1945 (624-A-6).

Where a village constructed water mains without a local assessment the village could not under section 432.02 levy a special assessment to reimburse itself. OAG March 14, 1946 (624-D-11).

432.04 PETITION; SERVICE-MAINS.

Where it appears that a village council by motion directed an inch water-pipe to be laid in one of its streets for the purpose of supplying water from the water-main to generate acetylene gas for its lighting plant located at its town hall, and afterwards by motion permitted relator and others to tap this one-inch line so laid, the village council by motion could abandon said pipe line and revoke the permit granted relator. State ex rel Steidley v Village of Kilkenny, 170 M 424, 212 NW 899.

432.06 HOW EXTENDED AND COLLECTED.

A village incorporated and separated as an election and assessment district from the town after the town meeting had made the tax levy, the county auditor must levy the tax after voting against the entire territory of the town and village, and credit the town with that portion paid by the residents of the town and to the village the part paid by taxpayers of the village. OAG Sept. 28, 1923, (20).

432.11 WATER MAINS AND APPURTENANCES IN CITIES OF FOURTH CLASS, VILLAGES AND BOROUGHS.

A city council, having power to contract for the supplying of water and lights to the city and its inhabitants, may also grant such franchises for the use of the streets as are necessary or convenient for the construction and maintenance of the necessary works and appliances for furnishing such supplies; and such a grant, when accepted and acted upon by the grantee, constitutes a contract protected by the constitution of the United States from impairment by state legislation. Ordinances or resolutions passed by the city council under its delegated legislative powers, attempting to annul the contract and repeal the grant, are within the constitutional inhibition, and invalid.

Thirty years is not such an unreasonable length of time for the running of a contract for supplying a city or village with water as will entitle the municipality to avoid it on that ground, where it involves the erection and maintenance plant by the other party. Little Falls Electric & Water Co. v City of Little Falls, 102 F. 663.

Certificates of indebtedness authorized by L. 1921, c. 425, are direct and general obligations of the municipality issuing them; and under the provisions of the act no submission to the voters for authority to issue same is required. Bergman v Village of Golden Valley, 201 M 28, 275 NW 297.

In levying an assessment for an extension to a village water main, the question as to whether a property is benefited is one of fact for the council, in the first instance, to determine. Property outside the village is presumed to be not assessable. OAG Aug. 3, 1945 (624-D-11).

MINNESOTA STATUTES 1947 ANNOTATIONS

432.12 WATER WORKS, WATER MAINS, ETC.

988

Sections 432.11 et seq. are the sole authority by which a village may levy an assessment against abutting property for the cost of levying a water main; and the village has no power to assessment benefits for a water main laid by a private individual under agreement with the village. OAG May 29, 1946 (624-D-10).

The village may grant a permit to a person permitting him to lay water mains to serve a new development; but would have no right to contract to purchase the main and pay for same out of special assessments. If the village seeks to assess costs of the main against abutting property, it must follow the statute. OAG May 29, 1946 (624-D-10).

Where a contract is entered into between a village and a private individual authorizing the laying of water mains in a street, the village may designate what the connection charges shall be. OAG June 18, 1946 (624-D-11).

432.12 ASSESSMENT OF COST OF IMPROVEMENTS AGAINST ABUTTING OWNERS.

See, 1944 OAG 215, June 10, 1943 (624-D-10), noted under section 429.10.

Sections 432.12 and 432.17 authorize assessments against each piece or parcel of land benefited irrespective of whether such land is platted or unplatted. OAG Aug. 8, 1946 (624-D-10).

Where village mains are established along the village boundary line the village may pay the cost out of the general funds, and the council in its discretion may either assess the entire cost against property in the village abutting on the street or may assess only part of the cost against the property owner in case the benefits to the property owners are less than the entire cost; the village itself standing the difference so created. OAG June 10, 1943 (476-B-15).

432.14 PLANS AND SPECIFICATIONS; ADVERTISEMENT FOR BIDS.

A village may advertise for bids for service during the year, as for instance, for excavations during the official year. Where a contract is in existence, another cannot be added to it. There must be a separate advertisement for each contract. OAG Oct. 8, 1945 (707-a-15).

432.15 CONTRACTS; LETTING.

Chapter 12, Sp. L. of 1879, conferred upon the city of Crookston power to make and establish public pumps, wells, cisterns, and hydrants and to provide for water works for the supply of water for its inhabitants for both public and private needs. Held, that such provisions vest the municipality with power to enter into contracts with private individuals for the purposes stated.

Entering into such contracts and granting a franchise to individuals does not involve an exercise on the part of the municipality of its legislative or governmental functions as respects the rates and charges to be paid the grantees for a performance of the contracts, or otherwise, but only its proprietary powers, and the rules and principles of law applicable to contracts and transactions between individuals apply thereto. *City of Crookston v Crookston Water Works*, 150 M 347, 185 NW 380.

432.17 ASSESSMENTS.

Macalester College is not entitled to the benefits of exemptions, as an educational institution, from burdens imposed to pay for water mains laid on three sides of the college grounds. *State v Lewis*, 72 M 87, 75 NW 108; 82 M 390, 86 NW 611; *State v Macalester College*, 87 M 165, 91 NW 484; *Parsons v District of Columbia*, 170 US 45.

In proceedings under sections 432.01 and 432.11 to 432.24, assessments must be based upon benefits to the property assessed and the owner of the property is immaterial. OAG Aug. 8, 1946 (624-D10).

MINNESOTA STATUTES 1947 ANNOTATIONS

989

WATER WORKS, WATER MAINS, ETC. 432.32

432.20 CERTIFICATES OF INDEBTEDNESS.

Certificates of indebtedness authorized by L. 1921, c. 425, are direct and general obligations of the municipality issuing them; and under the provisions of the act no submission to the voters for authority to issue same is required. *Bergman v Village of Golden Valley*, 201 M 28, 275 NW 297.

The village has no power where it does not lay special assessments to issue certificates of indebtedness to pay the cost of a new well, pump and pumphouse without the vote of the people. OAG Nov. 14, 1945 (476-D-4).

432.32 CERTAIN VILLAGES MAY INSTALL WATER AND SEWER MAINS; BOND ISSUE; CONTRACT WITH ADJACENT CITY.

Amended by L. 1947 c. 460 s. 1.

Sections 432.22 et seq. establish a procedure whereby the village can, where water mains are constructed of cast iron and under certain circumstances, levy special assessment against property benefited by existing mains. OAG May 22, 1946 (624-D-11).