

of Justices of the Peace. The Court or Jury, as the case may be, may alter the determination of the said council of the damages and benefits, or either, and may award costs in its discretion.

**[(12)]** (*m*) Not later than six months after judgment, in case an appeal is taken, or after the expiration of ten days from the determination of damages and benefits by the council as aforesaid, in case no appeal is taken, and prior to the payment or tender of damages to any person the council shall determine, by motion or resolution or ordinance, to be recorded with the other proceedings, whether or not the proposed improvement shall be made.

In case the council determines not to continue with the proposed improvement, new commission may be issued as in the judgment of the council may deem proper, and the city shall not be liable for any damages occasioned by the determination to discontinue the proceedings other than the costs of appeal, if any, awarded against them.

And, in case the council shall determine to make the proposed improvement, they may, at any time prior to the payment or tender of damages to any person refund benefits received by the city, if any, with interest thereon, and discontinue the proceedings, and in such case the city shall not be liable for any damages occasioned by such discontinuance other than the costs of appeal, if any, awarded against them.

It is intended by this sub-division that the council shall have the power to change their determination to carry on the proposed improvement but shall not have the power to change their determination to discontinue the said improvement.

**[(13)]** (*n*) The city, before actually undertaking the work of the proposed improvement shall pay or tender to the person, his agent, guardian or representative, the amount of damages awarded less the amount of benefits assessed. And the said damages shall be considered personal property from the time of determination by the council mentioned in sub-division **[nine (9)]** (*j*) of this section.

And if for any reason the person to whom damages are payable refuses to receive said payment, or, by reason of his infancy or other cause, is unable to receive and receipt for the same, the sum due him as damages less the amount of benefits assessed against his property shall be deposited in some bank in Salisbury paying interest on deposits, if