

ORDINANCE NO. 456

AN ORDINANCE LEVYING ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF IMPROVING AND PAVING PORTIONS OF THE FOLLOWING STREET IN THE CITY OF MESQUITE, TEXAS, TO-WIT:

Leyenda Drive from Newsom Street to Pioneer Road

PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE, THE RATE OF INTEREST, AND FIXING A CHARGE AND LIEN AGAINST SAID PROPERTY AND MAKING SAID CHARGE A PERSONAL LIABILITY OF THE PROPERTY OWNERS OWNING PROPERTY ABUTTING ON SAID STREET, AND PROVIDING FOR THE COLLECTION THEREOF, AND DECLARING AN EMERGENCY.

WHEREAS, heretofore a resolution was duly adopted by the City Council ordering the improvements of said street by paving with five (5) inch thick Reinforced Concrete Pavement with Integral Curb meeting the City's Standard Specifications, and,

WHEREAS, pursuant to said resolution, specifications were prepared for said work by the Director of Public Works, filed with said Council, examined, approved, and adopted by it, all as required by applicable law; and,

WHEREAS, thereafter in compliance with the law the Director of Public Works prepared his statements or lists showing the names of property owners upon said street, the description of their property, the total cost of the said improvements, the cost thereof per front foot and the cost of each property owner, said statements possessing all the other requisites required by law; and,

WHEREAS, thereafter the said statements were filed with the City Council and by them examined and approved and a resolution was passed by said Council determining the necessity of making an assessment for part of the cost of said pavement against property owners and their property, and fixing a time and providing for a hearing to such property owners, their agents, or attorneys; all in accordance with the terms of applicable law, at which hearing said owners were to be heard as to the benefits of the said improvements to their property,

as to any error or invalidity in said proceedings, or to any matter or thing connected with the said improvements; and,

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WHEREAS, the said resolution in connection with the improvement of said street was duly adopted in compliance with the law on the 1 day of October, 1962; and,

WHEREAS, thereafter, in accordance with the terms of the law, the City Secretary of the City of Mesquite gave notice to the property owners on said street, their agents and attorneys, of said hearing, by publishing a copy of said resolution in the Texas Mesquiter, a weekly paper of general circulation in the City of Mesquite ten days prior to the days set for the hearing, to-wit, the 3 day of December, 1962; and the City Secretary also gave notice of said hearing by posting letters containing the same to said property owners, their agents and attorneys, ten days before the said hearing; provided, however, that any failure of the property owners to receive said notices shall not invalidate these proceedings; and,

WHEREAS, said hearing was had at the time and place mentioned in the said resolution and notice, to-wit, on the 3 day of December, 1962, at 2:30 P.M., at the Council Chamber in the City Hall of the City of Mesquite, Texas, which hearing was closed on the 3 day of Dec., 1962; and,

WHEREAS, at said hearing, all desiring to contest the assessments, correct the same, or in any manner be heard concerning the benefits thereof, or in any other matter, were heard, and errors and all matters of error or mistake or inequalities or other matters requiring rectification which were called to the attention of the Council were rectified and corrected;

Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS; THAT,

SECTION 1. That the action of the City Council closing the hearing and overruling the protests at the public hearing on the day of , 19 , in these proceedings is hereby ratified and confirmed by this ordinance. That the City Council, from the evidence, finds that the assessments herein levied should be made and levied against the respective parcels of property abutting upon the street hereinbelow mentioned and against the owners thereof, and that such assessments and charges are right and proper, and are substantially in proportion to the benefits to the respective parcels of property by means of the improvement in the unit or district for which such assessments are levied, and establish substantial justice and equality and uniformity between the respective owners of the respective properties and between all parties concerned.

considering the benefits received and burdens imposed, and further finds that in each case the abutting property assessed is specially benefited in enhanced value to the said properties by means of the said improvements in the unit or district upon which the particular property abuts, and for which assessment is levied and charge made, in a sum in excess of the said assessment and charge made against the same by this ordinance, and further finds that the apportionment of the cost of the improvements is in accordance with the law in force in this City and the proceedings of the City heretofore had with reference to said improvements and is in all respects valid and regular.

SECTION 2. There shall be and is hereby levied and assessed against the parcels of property hereinbelow mentioned, and against the real and true owners thereof (whether such owners be correctly named herein or not), the sums of money below mentioned and itemized shown opposite the description of the respective parcels of property, and the several amounts assessed against the same, and the owners thereof, as far as such owners are known, being as follows:

SEE ATTACHED EXHIBIT "A"

SECTION 3. Where more than one person, firm or corporation owns an interest in any property above described, each said person, firm or corporation shall be personally liable only for its, his or her pro rata of the total assessment against such property in proportion as its, his or her respective interest bears to the total ownership of such property, and its, his or her respective interest in such property may be released from the assessment lien upon payment of such proportionate sum.

SECTION 4. The several sums above mentioned and assessed against the said parcels of property and the owners thereof, and interest thereon at the rate of six per centum (6%) per annum, together with reasonable attorney's fees and costs of collection, if incurred, are hereby declared to be and are made a lien upon the respective parcels of property against which the same are assessed, and a personal liability and charge against the real and true owners of such property, whether such owners be named herein or not, and the said liens shall be and constitute the first enforceable lien and claim against the property on which such assessments are levied, and shall be a first and paramount lien thereon, superior to all other liens and claims except State, County, School District and City ad valorem taxes.

The sums so assessed against the abutting property and the owners thereof, shall be and become due and payable as follows, to-wit: in sixty equal installments, the first payable on or before thirty (30) days from the completion and acceptance of the improvements in the unit or district upon which the property abuts, and one (1)

each month thereafter until the total amount is paid; deferred payments shall bear interest from the date of such completion and acceptance at the rate of six per centum (6%) per annum, payable monthly with each installment, so that upon the completion and acceptance of the improvements in a particular unit or district, assessments against such completed and accepted unit or district shall be and become due and payable in such installments, and with interest from the date of such completion and acceptance. Provided, however, that any owner shall have the right to pay the entire assessment, or any installment thereof, before maturity, by payment of principal and accrued interest, and further provided that if default shall be made in the payment of any installment of principal or interest promptly as the same matures, then the entire amount of the assessment upon which such default is made shall, at the option of the said City of Mesquite, or its assigns, be and become immediately due and payable, and shall be collectible, together with reasonable attorneys' fees and costs of collection, if incurred,

SECTION 5. That if default be made in the payment of any of the said sums hereby assessed against said property owners and their property, collection thereof shall be enforced either by the sale of the said property by the Assessor and Collector of Taxes of the City of Mesquite as near as possible in the manner provided for the sale of property for non-payment of ad valorem taxes; or at the option of the said City of Mesquite the payment of the said sums shall be enforced by suit in any court having jurisdiction.

SECTION 6. That for the purpose of evidencing the several sums payable by said property owners and the time and terms of payment, and to aid in the enforcement thereof, assignable certificates shall be issued by the City of Mesquite upon the completion and acceptance of the said work of improvement, which shall be executed by the Mayor, attested by the City Secretary, under the impress of the corporate seal, and shall be payable to the City of Mesquite, or its assigns which certificate shall declare the said amounts and time and terms of payment thereof, and the said rate of interest payable thereof, and shall contain the name of the owner and the description of his property by Lot or Block Number or front feet thereof, or such description as may otherwise identify the same by reference to any other fact, and if said property shall be owned by an estate, then the description thereof as so owned shall be sufficient.

And the said certificates shall further provide that if default shall be made in the payment of any installment of principal or interest thereon, when due then at the option of the said City of Mesquite being the owner and holder thereof, the whole of the said assessment shall at once become due and payable and shall be collectible with reasonable attorney's fees and costs if incurred.

And the said certificates shall further set forth and evidence the said personal liability of the owner and the lien upon his premises, and shall provide that if default shall be made in the payment thereof, the same may be enforced either by sale of the property by the Tax Assessor and Collector of the City of Mesquite, as above recited, or by suit in any court having jurisdiction.

And the said certificates shall further recite that the proceedings with reference to making said improvements have been regularly had in compliance with the terms of the applicable law, and that all prerequisites to the fixing of the lien and claims of personal liability evidenced by such certificates have been performed, which recitals shall be evidence of the facts so recited and no further proof thereof shall be required.

That the said certificates shall also provide the amounts payable thereunder shall be paid to the Assessor and Collector of Taxes of the City of Mesquite, who shall credit said payments upon the said certificates, and shall immediately deposit the amounts so collected with the City Treasurer of the City of Mesquite, to be kept and held by him in a special fund, which is hereby designated as City of Mesquite street Improvement Fund, and which payments shall be by the Treasurer paid to the said City of Mesquite or other holder of the said certificates, on presentation thereof to him, duly credited by Assessor and Collector of Taxes, the said credit by said Assessor and Collector of Taxes being the Treasurer's Warranty for making such payment and the said City of Mesquite or other holder of said certificate, shall receipt in writing to said Treasurer when paid in full, together with all costs of collection.

And the said certificates shall further provide that the City of Mesquite shall exercise all legal power, when requested so to do by the holder of said certificate, to aid in the collection thereof; but the City of Mesquite shall in no wise be liable to the holder of said certificates or for any costs or expense in the premises, or for any failure of the said City Council or any of its officers in connection therewith.

Full power to make and levy reassessments, and to correct mistakes, errors, invalidities or irregularities, either in the assessments or in the certificates issued in evidence thereof, is in accordance with the law in force in this City, vested in the City.

SECTION 7. All assessments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

SECTION 8. The assessments herein levied are made and levied under and by virtue of the terms, powers and provisions of an Act passed at the First Called Session of the Fortieth Legislature of the State of Texas, known as Chapter 106 of the Acts of said Session, with amendments thereto, now shown as Article 1105b of Vernon's Texas Civil Statutes, which said law has been adopted as an alternative method for the construction of street and alley improvements in the City of Mesquite, Texas, and Section 12 of Article III of the Charter of the City of Mesquite;

Section 12. The act by the Legislature of the State of Texas in 1927 and shown as Chapter 106, Acts of the First Called Session of the Fortieth Legislature, together with all amendments thereof, said Act with amendments being shown as Article 1105b, Vernon's Annotated Revised Civil Statutes of the State of Texas, is hereby embraced in and made a part of this Charter.

SECTION 9. The assessments so levied are for the improvements in the particular unit or district upon which the property described abuts, and the assessments for the improvements in one unit or district are in nowise related to or connected with the improvements in any other unit or district, and in making assessments and in holding said hearing, the amounts assessed for improvements in one unit or district have been in nowise affected by any fact in anywise connected with the improvements or the assessments therefore in any other unit or district.

SECTION 10. The fact that in order to finance these improvements in an expeditious manner creates an urgency and an emergency in the immediate preservation of public peace, health, and safety and required that the rules providing for ordinances to be read more than one time, or at more than one meeting, be suspended, and that this ordinance be passed as and take effect as an emergency measure, and such rules are accordingly suspended and this ordinance is passed as and shall take effect and be in force as an emergency measure, and shall be in force and effect immediately from and after its passage.

PASSED by the City Council of the City of Mesquite, Texas, on the 3 day of Nov, 1962.

B. W. [Signature]
Mayor

ATTEST:
[Signature]
City Secretary

ASSESSMENT LIST

PAVING OF LEYENDA DRIVE FROM NEWSOM STREET TO PIONEER ROAD

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	<u>Mesquite Park Add'n</u> <u>No. 1, Block 3</u>			
L. V. Snider 731 Leyenda Dr.	Lot 16	80	\$2.75	\$220.00
B. P. Potter 727 Leyenda Dr.	Lot 17	65	\$2.75	\$178.75
J. J. Matous, Jr. 723 Leyenda Dr.	Lot 18	65	\$2.75	\$178.75
D. E. McElroy 719 Leyenda Dr.	Lot 19	80	\$2.75	\$220.00
A. G. Lontai 715 Leyenda Dr.	Lot 20	70	\$2.75	\$192.50
M. R. McMahon 711 Leyenda Dr.	Lot 21	60	\$2.75	\$165.00
Charles E. Norwood 707 Leyenda Dr.	Lot 22	60	\$2.75	\$165.00
D. J. Smith 703 Leyenda Dr.	Lot 23	60	\$2.75	\$165.00
H. P. White 627 Leyenda Dr.	Lot 24	60	\$2.75	\$165.00
M. M. Simmons 623 Leyenda Dr.	Lot 25	60	\$2.75	\$165.00
Earl E. Womack 619 Leyenda Dr.	Lot 26	60	\$2.75	\$165.00
Lonnie Speck 613 Leyenda Dr.	Lot 27	90	\$2.75	\$247.50
E. T. Ferrin 609 Leyenda Dr.	Lot 28	90	\$2.75	\$247.50
F.H.A. 605 Leyenda Dr.	Lot 29	60	\$2.75	\$165.00
Marion H. Leftwich 601 Leyenda Dr.	Lot 30	75.73	\$2.75	\$208.26

Paving of Leyenda Drive from Newsom Street to Pioneer Road

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	Mesquite Park Add'n No. 1, Block 4			
Republic National Life Insurance Co. 600 Leyenda Dr.	Lot 1	92.15	\$2.75	\$253.41
H. C. McGaughy 604 Leyenda Dr.	Lot 2	60	\$2.75	\$165.00
Nellie M. Hicks 608 Leyenda Dr.	Lot 3	60	\$2.75	\$165.00
John D. Furstenwerth 612 Leyenda Dr.	Lot 4	55	\$2.75	\$151.25
John L. Mullins 616 Leyenda Dr.	Lot 5	55	\$2.75	\$151.25
E. B. Goodard 620 Leyenda Dr.	Lot 6	60	\$2.75	\$165.00
Sarah E. Ward 624 Leyenda Dr.	Lot 7	60	\$2.75	\$165.00
Joe W. Slider 628 Leyenda Dr.	Lot 8	60	\$2.75	\$165.00
T. J. Moody, Tr. 702 Leyenda Dr.	Lot 9	60	\$2.75	\$165.00
James E. Aston 706 Leyenda Dr.	Lot 10	60	\$2.75	\$165.00
James R. Black 710 Leyenda Dr.	Lot 11	60	\$2.75	\$165.00
Ray M. Hall 714 Leyenda Dr.	Lot 12	66	\$2.75	\$181.50
Roy P. Hood 718 Leyenda Dr.	Lot 13	79	\$2.75	\$217.25
D. N. Holt 722 Leyenda Dr.	Lot 14	65	\$2.75	\$178.75
O. L. Walker 726 Leyenda Dr.	Lot 15	65	\$2.75	\$178.75
W. H. Schulgen 730 Leyenda Dr.	Lot 16	80	\$2.75	\$220.00

Paving of Leyenda Drive from Newsom Street to Pioneer Road

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	<u>Mesquite Park Add'n</u> <u>No. 4, Block 12</u>			
Barron Development Co. 937 Leyenda Dr.	Lot 27	128	\$2.75	\$352.00
Barron Dev. Co. 831 Leyenda Dr.	Lot 28	44.9	\$2.75	\$123.48
Barron Dev. Co. 923 Leyenda Dr.	Lot 29	49.62	\$2.75	\$136.46
Barron Dev. Co. 919 Leyenda Dr.	Lot 30	60	\$2.75	\$165.00
Barron Dev. Co. 915 Leyenda Dr.	Lot 31	60	\$2.75	\$165.00
Barron Dev. Co. 911 Leyenda Dr.	Lot 32	60	\$2.75	\$165.00
Barron Dev. Co. 907 Leyenda Dr.	Lot 33	60	\$2.75	\$165.00
Barron Dev. Co. 903 Leyenda Dr.	Lot 34	60	\$2.75	\$165.00
Barron Dev. Co. 831 Leyenda Dr.	Lot 35	60	\$2.75	\$165.00
Barron Dev. Co. 827 Leyenda Dr.	Lot 36	60	\$2.75	\$165.00
Barron Dev. Co. 823 Leyenda Dr.	Lot 37	60	\$2.75	\$165.00
Barron Dev. Co. 819 Leyenda Dr.	Lot 38	60	\$2.75	\$165.00
Barron Dev. Co. 815 Leyenda Dr.	Lot 39	60	\$2.75	\$165.00
Barron Dev. Co. 811 Leyenda Dr.	Lot 40	60	\$2.75	\$165.00
Barron Dev. Co. 807 Leyenda Dr.	Lot 41	60	\$2.75	\$165.00
Republic Nat'l Life 803 Leyenda Dr.	Lot 42	75	\$2.75	206.25

Paving of Leyenda Drive from Newsom Street to Pioneer Road

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	<u>Mesquite Park Add'n</u> <u>No. 4, Block 13</u>			
Barron Dev. Co. 922 Leyenda Dr.	Lot 14	191.26	\$2.75	\$525.97
Barron Dev. Co. 918 Leyenda Dr.	Lot 15	105	\$2.75	\$288.75
Barron Dev. Co. 912 Leyenda Dr.	Lot 16	60	\$2.75	\$165.00
Barron Dev. Co. 906 Leyenda Dr.	Lot 17	60	\$2.75	\$165.00
Barron Dev. Co. 902 Leyenda Dr.	Lot 18	60	\$2.75	\$165.00
Barron Dev. Co. 830 Leyenda Dr.	Lot 19	60	\$2.75	\$165.00
Barron Dev. Co. 826 Leyenda Dr.	Lot 20	60	\$2.75	\$165.00
Barron Dev. Co. 822 Leyenda Dr.	Lot 21	60	\$2.75	\$165.00
Barron Dev. Co. 818 Leyenda Dr.	Lot 22	60	\$2.75	\$165.00
Republic National Life 814 Leyenda Dr.	Lot 23	60	\$2.75	\$165.00
Republic Nat'l Life 810 Leyenda Dr.	Lot 24	60	\$2.75	\$165.00
Republic Nat'l Life 806 Leyenda Dr.	Lot 25	60	\$2.75	\$165.00
Republic Nat'l Life 802 Leyenda Dr.	Lot 26	69.94	\$2.75	\$192.34
	<u>Mesquite Park Add'n</u> <u>No. 4 - Block 15</u>			
J. F. Debus 941 Rancho Dr.	Lot 19	125	\$2.75	\$343.75
Republic Nat'l Life 926 Lindo Drive	Lot 20	125	\$2.75	\$343.75

Paving of Leyenda Drive from Newsom Street to Pioneer Road

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	<u>Mesquite Park Add'n</u> <u>No. 4 - Block 19</u>			
Republic Life Ins. 941 Pioneer Rd.	Lot 18	120	\$2.75	\$330.00
B. R. Baker 942 Pampa Drive	Lot 19	120	\$2.75	\$330.00
	<u>Mesquite Park Add'n</u> <u>No. 4 - Block 20</u>			
Joel L. Dobson 1001 Leyenda Dr.	Lot 1	100	\$2.75	\$275.00
Fred R. Hulsey 943 Pampa Drive	Lot 16	100	\$2.75	\$275.00
R. T. Goolsby 1133 Leyenda Dr.	Lot 17	62	\$2.75	\$170.50
M. W. Miles 1129 Leyenda Dr.	Lot 18	60	\$2.75	\$165.00
David A. Schmitz 1125 Leyenda Dr.	Lot 19	60	\$2.75	\$165.00
Thomas B. Dodson 1121 Leyenda Dr.	Lot 20	60	\$2.75	\$165.00
Charlie L. Howell 1117 Leyenda Dr.	Lot 21	60	\$2.75	\$165.00
Glen D. Thompson 1113 Leyenda Dr.	Lot 22	60	\$2.75	\$165.00
Woodrow W. Mallett 1109 Leyenda Drive	Lot 23	60	\$2.75	\$165.00
J. E. Flemmons 1105 Leyenda Dr.	Lot 24	60	\$2.75	\$165.00
Clark Sell 1101 Leyenda Dr.	Lot 25	60	\$2.75	\$165.00
Paul E. Spradling 1017 Leyenda Dr.	Lot 26	60	\$2.75	\$165.00
William T. Burton 1013 Leyenda Dr.	Lot 27	80	\$2.75	\$220.00
Leon R. Burgett 1009 Leyenda Dr.	Lot 28	88	\$2.75	\$242.00

Paving of Leyenda Drive from Newsom Street to Pioneer Road

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	Mesquite Park Add'n <u>No.4-Block 21</u>			
John Hanna 1000 Leyenda Dr.	Lot 5	127	\$2.75	\$349.25
Daniel J. Casario 1004 Leyenda Dr.	Lot 6	55	\$2.75	\$151.25
James N. Roe 1008 Leyenda Dr.	Lot 7	55	\$2.75	\$151.25
Clinton W. Taft 1012 Leyenda Dr.	Lot 8	60	\$2.75	\$165.00
John C. Hill 1016 Leyenda Dr.	Lot 9	60	\$2.75	\$165.00
Coburn R. Stanley 1020 Leyenda Dr.	Lot 10	60	\$2.75	\$165.00
James B. Thomas 1100 Leyenda Dr.	Lot 11	60	\$2.75	\$165.00
Bennie F. Miles 1104 Leyenda Dr.	Lot 12	60	\$2.75	\$165.00
Veterans Administration 1108 Leyenda Dr.	Lot 13	60	\$2.75	\$165.00
James Collier 1112 Leyenda Dr.	Lot 14	60	\$2.75	\$165.00
Roy Garrison 1116 Leyenda Dr.	Lot 15	60	\$2.75	\$165.00
Albert H. Wensel 1120 Leyenda Dr.	Lot 16	60	\$2.75	\$165.00
Jimmy L. Wardlow 1124 Leyenda Dr.	Lot 17	60	\$2.75	\$165.00
Glen M. Miller 1128 Leyenda Dr.	Lot 18	62	\$2.75	\$170.50
Dallas R. LaFerney 1003 Pampa Drive	Lot 19	100	\$2.75	\$275.00

Paving of Levenda Drive from Newsom Street to Pioneer Road

<u>Property Owner</u>	<u>Property Description</u>	<u>Front Feet</u>	<u>Cost Per Front Foot</u>	<u>Total Assessment</u>
	<u>Mesquite Park Add'n</u> <u>No. 4 - Block 23</u>			
Elmer D. Sarratt 1001 Pioneer Rd.	Lot 1	120	\$2.75	\$330.00
F.H.A. 1002 Pampa Dr.	Lot 28	120	\$2.75	\$330.00
	<u>Mesquite Park Add'n</u> <u>No. 4 - Block 25</u>			
Johnnie E. Ennis 1001 Rancho Dr.	Lot 1	125	\$2.75	\$343.75
Republic Nat'l Life 1000 Lindo Dr.	Lot 44	125	\$2.75	\$343.75
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