

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, LEVYING ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF IMPROVING THE WATER AND SANITARY SEWER SYSTEM IN THE CITY OF MESQUITE, TEXAS, TO-WIT: BY THE CONSTRUCTION OF WATER DISTRIBUTION MAINS AND APPURTENANCES IN AND ALONG FORNEY AVENUE BETWEEN TOWN EAST BOULEVARD SOUTHWESTERLY TO A POINT 1400 FEET SOUTH OF CHASE ROAD, AND A SANITARY SEWER MAIN AND APPURTENANCES IN AND ALONG FORNEY AVENUE BETWEEN TREASURY ROW SOUTHWESTERLY TO A POINT 1250 FEET SOUTH OF CHASE 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 BENEFITED BY SAID IMPROVEMENTS, 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 the water and sanitary sewer system by construction of the aforesaid improvements; and

WHEREAS, Pursuant to said resolution, specifications and an estimate of the cost of such improvements were prepared for said work by the City Engineer filed with said Council, examined, approved, and adopted by it, all as required by applicable law; and,

WHEREAS, In compliance with the law the City Engineer prepared his statements or lists showing the names of owners of benefited property upon said Forney Avenue, the description of their property, the total cost of the said improvements, the cost thereof per front foot and cost to 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 improvements against property owners and their property, and fixing a time and providing for a hearing to such property owners, 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,

00162

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

WHEREAS, The said resolution in connection with the improvement of said water and sanitary sewer system was duly adopted in compliance with the law on the 7th day of November, 1977; and

WHEREAS, In accordance with the terms of the law, the City Secretary of the City of Mesquite gave notice to the owners of benefited property on said Forney Avenue of said hearing, by publishing a copy of said resolution in the Mesquite Daily News, a daily paper of general circulation in the City of Mesquite, three times prior to the day set for the hearing to-wit, the 21st day of November, 1977; and the City Secretary also gave notice of said herein by mailing letters containing the same to said property owners at least ten (10) 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 21st day of November, 1977 at 1:30 o'clock p.m. at the Council Chamber in the City Hall of the City of Mesquite, Texas, and was then closed; and,

WHEREAS, At said hearing, all desiring to contest the said assessments, correct the same, or in any manner be heard concerning the benefits thereof, or in any related 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:

SECTION 1. That the action of the City Council closing the hearing and overruling the protests at the public hearing on the 21st day of November, 1977, 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 benefited by said improvements herein below mentioned and against the owners thereof; that such assessments and charges are right and proper, and are substantially in proportion to the benefits to the respective parcels of pro-

erty by means of the improvement for which such assessments are levied, and establish substantial justice, equality, and uniformity between the respective owners of the respective properties and between all parties concerned, considering the benefits received and burdens imposed. The Council further finds that in each case the benefited property assessed is specifically benefited in enhanced value to the said properties by means of the said improvements 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. The Council further finds that the apportionment of the cost of the improvements is in accordance with the law in force in this City and that the proceedings of the City heretofore had with reference to said improvements are in all respects valid and regular. 00163

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 set out in Exhibit "A" hereto, which is incorporated herein for all purposes.

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 ten (10) percent 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 benefited property and the owners thereof, shall be and become due and payable as follows, to-wit, twenty-four (24) equal installments, the first payable on or before thirty (30) days after the acceptance of the completed improvements

00164

by the City Council 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 ten (10) percent per annum, payable monthly with each installment. 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 attorney's 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 suit in any court having jurisdiction or by lien foreclosure.

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 may 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, signing the same or by his facsimile signature impressed thereon, 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 the 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 of 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 as above provided.

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 pre-

00165

requisites to the fixing of the lien and claims of personal liability evidenced by such certificates have been performed, which recitals shall be prima facie 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 Director of Finance 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, 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 the Director of Finance, the said credit by said Director of Finance 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 nowise be liable to the holder of said certificates in any manner for payment of the amount evidenced by the 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.

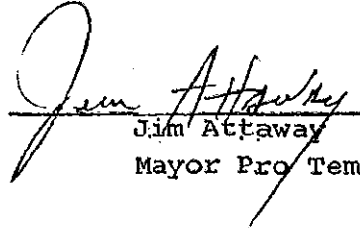
SECTION 7. All assessments levied are a personal liability and charged against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

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 Fifty-Eighth Legislature of the State of Texas, known as Chapter 192 of the Acts of said Session, with amendments thereto, now shown as Article 1110C of Vernon's Texas Civil Statutes, which said law has been adopted as an alternative method for the construction of water and sewer improvements in the City of Mesquite, Texas, by Article III, Section 16 of the Charter of the City of Mesquite.

00166

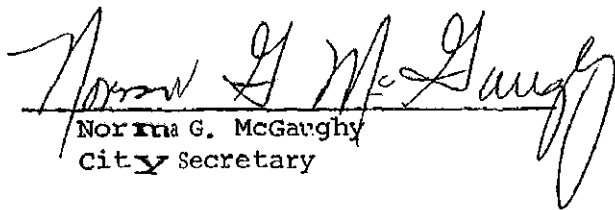
SECTION 9. The fact that the existing city water and sewer system is inadequate to provide those services to the areas affected herein creates an urgency and an emergency for the preservation of the public health, safety and welfare and requires that this Ordinance shall take effect immediately from its passage as the law in such cases provides.

DUN PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 21st day of November, 1977.



Jim Attaway
Mayor Pro Tem

ATTEST :



Norma G. McGaughy
City Secretary