

ORDINANCE NO. 1978

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 SYSTEM IN THE CITY OF MESQUITE, TEXAS, TO-WIT: BY THE CONSTRUCTION OF WATER DISTRIBUTION MAINS AND APPURTENANCES IN AND ALONG EDINBURGH STREET FROM MARIPOSA DRIVE IN A NORTHERLY DIRECTION TO A DEAD END. ALSO, REGARDING WATER IMPROVEMENTS ALONG WESTWOOD AVENUE FROM MARIPOSA DRIVE IN A NORTHERLY DIRECTION TO A DEAD END: 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 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 Edinburgh Street and Westwood 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 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 the 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, 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 water system was duly adopted in compliance with the law on the 16th day of January, 1984; 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 Edinburgh Street and Westwood 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 16th day of Jan., 1984; 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 16th day of January, 1984, at 3:00 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 OBTAINED 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 16th day of January, 1984, in these proceedings is hereby ratified and confirmed by this ordinance. That the City Council, from the evidence, finds that the assessments herein 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 property 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 City 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 the 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.

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 to its, his, or her respective interest bears to the total ownership of 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 eight (8) 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 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: on or before thirty (30) days after acceptance of the completed improvements by the City Council and shall be collectible together with reasonable attorney's fees and cost 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.

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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 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 certificates 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.

As 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-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 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 no way be liable to the holder of said 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

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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 improvements in the City of Mesquite, Texas, by Article III, Section 16 of the Charter of the City of Mesquite.


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

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 16th day of January, 1984.



Brunhilde Nystrom
Mayor

ATTEST:



Lynn Prugel
Acting City Secretary

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CITY CONTRACT #83-134

Edinburg St. Water Line Improvement
Assessment List

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
Galloway, J. B. P.O. Box 404 Mesquite, Tx. 75150	Hilhome Gardens Lot 15, 16 Bk.3	200	\$12.92	2,584.00
Spawn, William H. Rt. 3, Box 290 Terrell, Texas 75160	Lot 17, 18, Bk.3 19	300	"	3,876.00
Barnette, Ralph M., Jr. 8349 Cabrera Dallas, Texas 75228	Lot 20, 21, Bk.3 22, 23	400	"	5,168.00
Miller, Maude E., Est. 5008 Tulane Ft. Worth, Texas 76114	Lot 24 Bk.3	100	"	1,292.00
Spawn, William H. Rt. 3, Box 290 Terrell, Texas 75160	Lot 25 Bk.3	100	"	1,292.00
Davis, Kenneth 2419 Gus Thomasson Mesquite, Texas 75150	Lot 26 Bk.3	100	"	1,292.00
Higginbotham, Clark 6121 Bryan Dallas, Tx. 75206	N.W. 50X113 of Lot 27 Bk.3	50	"	646.00
Montgomery, John H. 1421 Rusk Mesquite, Tx. 75149	S.W. 50' of Lot 27 Bk.3 N. 113' of Lot 28	113 side	"	1,459.96

Assessment List

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
Pentecostal Holiness Church 1700 Longview Mesquite, Tx 75149	Lot 1 Blk. 4	100.30 side	\$12.92	1,295.88
Taylor, Ralph W. Rt. 3, Box 298 Tanglewood Willspoint, Tx. 75169	84x200 Lot 1 Blk. 4	84	"	1,085.28
Durrett, J. W. 9934 Chireno Dallas, Tx. 75220	Lot 3, 4 Blk. 4	200	"	2,584.00
CTS Real Estate P/S 3502 Haymen Dr. Garland, Tx. 75043	Lot 5, 6, 7 Blk. 4	300	"	3,876.00
Daniel Steel Ind. Inc. Rt. 2, Box 687 Sunnyvale, Tx. 75182	Lot 8 Blk. 4	100	"	1,292.00
Skinner, George B. Rt. 2 Bristol, Tx. 75119	Lot 9 Blk. 4	100	"	1,292.00
Reid, Mrs. J. O. P.O. Box 12 Cassville, Mo. 65625	S. 66' Lot 10 Blk. 4	66	"	852.72
Spawn, William H. Rt. 3, Box 290 Terrell, Tx. 75160	N. 33.3' Lot 10 Blk. 4 S. 33.3 Lot 11	66.6	"	860.47

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Assessment List

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
Daniel Steel Ind, Inc. Rt. 2, Box 687 Sunnyvale, Tx 75182	N. 66' Lot 11 Blk. 4 (Lots. 12, 12A, 13, 13B)	266	\$12.92	3,436.72
TOTAL ASSESSMENT				\$34,185.03

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CITY CONTRACT #83-114

Assessment List

Westwood Ave. Water Line Improvement

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
Ottwell Co. Inc. 4030 Gus Thomasson Mesquite, Tx. 75150	<u>Hilhome Gardens</u> Lot 14, 15 Blk. 4	200	\$12.90	\$2,580.00
Rodriguez, James C. 4732 Sarazen Mesquite, Tx. 75149	N.65' Lt. 16 S.35' Lt. 16 Blk.4 N.30' Lt. 17	130	"	1,677.00
Sanchez, Pamela et al 5200 Belmont Apt. 228 Dallas, Tx. 75206	S.70X200 Lot 17 Blk. 4	70	"	903.00
Strause, Rex J. 2500 Westwood Mesquite, Tx. 75150	Lot 18 Blk. 4	100	"	1,290.00
Taylor, James D. 501 Crest Hill Mesquite, Tx. 75149	Lot 19 Blk. 4	100	"	1,290.00
Buckner Blvd. Plumbing 4030 Gus Thomasson Mesquite, Tx. 75149	Lot 20 Blk. 4	100	"	1,290.00
Ottwell Co. Inc. 9520 Rocky Branch Dallas, Tx. 75243	Lot 21 Blk. 4	100	"	1,290.00
Ottwell Co. Inc. Rt. 5 Box 326	Lot 22, 23 Blk. 4	200	"	2,580.00

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Assessment List

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
Ottwell, R.C. 4030 Gus Thomason Mesquite, Tx. 75149	Lot 24 Blk. 4	100	\$12.90	1,290.00
Ottwell Co. Inc. Rt. 5, Box 326 Greenville, Tx. 75401	Lot 26 Blk. 4 Lot 1 Blk. 5	201 side	"	2,592.90
Nigley Const. Co. P.O. Box 401205 Garland, Tx. 75040	Lot 3, 4, 5 Blk. 5	300	"	3,870.00
Ottwell Co. Inc. Rt. 5, Box 326 Greenville, Tx. 75401	Lot 6 Blk. 5	100	"	1,290.00
Christensen, W. C. 5455 University Blvd. Dallas, Tx. 75209	Lot 7, 8 Blk. 5	200	"	2,580.00
Robertson, Yancey M. 2651 Deephill Dallas, Tx. 75233	Lot 9 Blk. 5	100	"	1,290.00
Ferrick, Jo Annette 3041 Osceola St. Westminister, Co. 80030	Lot 10, 11 Blk. 5	200	"	2,580.00
Morris, Tom C. 333 Prestonwood Dr. Dallas, Tx. 75281	Lot 12, 13 Blk. 5	200	"	2,580.00

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