

ORDINANCE NO. 2586

00255

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, LEVYING ASSESSMENTS AGAINST THE 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:

KEARNEY STREET - 700' EAST OF BELT LINE TO S.H. 352

PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE, THE RATE OF INTEREST, AND FIXING A LIEN AND CHARGE 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 improvement of said street by excavating or filling to the grade specified; by constructing necessary drainage facilities where specified; and by paving with reinforced concrete in accordance with the City's Standard Specifications and the approved engineering plans; and

WHEREAS, pursuant to said resolution, specifications 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, thereafter in compliance with the law, the City Engineer prepared her 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 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

WHEREAS, the said resolution in connection with the improvements of said street was duly adopted in compliance with the law on the 6th day of February, 1989.

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 three times in the MESQUITE NEWS, a weekly newspaper of general circulation published in the City of Mesquite, twenty-one days prior

to the day set for the hearing, to-wit, the 6th day of February, 1989; and the City Secretary also gave notice of said hearing by posting letters containing the same to the property owners, their agents and attorneys, fourteen days before the said hearing; provided, however, that any failure of the property owners to receive said notices shall not invalidate those proceedings and

WHEREAS, said hearing was held at the time and place mentioned in said resolution and notice, to-wit, on the 6th day of February, 1989, at 3:00 P.M., at the Council Chamber in the Municipal Building of the City of Mesquite, Texas, which hearing was continued from day to day, and time to time, until the 6th day of February, 1989, and was then closed, and

WHEREAS, at said hearing, all desiring to contest the said assessments, correct the same, or in any manner to be heard concerning the benefits thereof, or in any other matter, were heard, and error and all matters of error or mistake or inequalities or other matters requiring rectification which was 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 6th day of February, 1989, 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 among the respective owners of the respective properties and among all parties concerned, considering the benefits received and the 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:

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 may be released from the assessment lien upon payment of such proportionate sum.

SECTION 4A(Commercial) 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) per centum 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: on or before thirty (30) days from the completion and acceptance by the City Council of the improvements in the unit or district upon which the property abuts, and shall be collectible, together with reasonable attorney's fees and costs of collection, if incurred.

SECTION 4B.(Residential) 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) per centum 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.

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The sums so assessed against the abutting property and the owners thereof shall be and become due and payable as follows, to-wit: In twenty-four (24) equal installments, the first payment 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) payment 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 eight (8%) percent per annum, payable monthly with each installment, so that upon the completion and acceptance of the improvements in a particular 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 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 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, 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 owners 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 pre-requisites 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, 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, being the Treasurer's Warranty for making such payment and the said City of Mesquite or other holder of said certificate, shall deliver 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 to do so 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 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.

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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 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 no way related to or connected with the improvements in any other unit or district, and in making assessments and in holding said hearing, the amounts making assessments in one unit or district have been in no way affected by any fact or in any way connected with the improvements or the assessments therefor 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 provided 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.

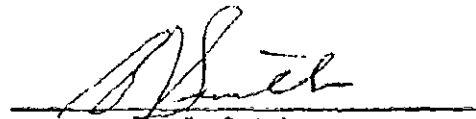
PASSED by the City Council of the City of Mesquite, Texas, on the 6th day of February, 1989.

  
George A. Venner, Sr.  
Mayor

ATTEST:

APPROVED AS TO FORM:

  
Lynne Prugel  
City Secretary

  
J. J. Smith  
City Attorney

KEARNEY STREET PAVING AND DRAINAGE IMPROVEMENTS

Approved By City Council 2/6/89

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C.C. No. 89-10  
Assessment List

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
State Federal Savings & Loan Assoc. of Lubbock P. O. Box 79408 Lubbock, Texas 79408	Abst. 1353, Sht. 370, Tract 43	1,403.45'	\$60.00	\$84,207.00
State Federal Savings & Loan Assoc. of Lubbock P. O. Box 10216 Lubbock, Texas 79408	Abst. 1353, Pg. 370, Tract 9.1 1590 E. Kearney	1,220.64'	\$60.00	\$73,238.40
Vista Savings Assoc. 1301 E. 8th Street Odessa, Texas 79761	Meadowcreek Retail, Ph. 1, Blk. I, Lot 1 1515 E. Kearney	476.54'	\$60.00	\$28,592.40
Ethel Dennis Rt. 2, Box 12 Mesquite, Texas 75149	Abst. 1353, Sht. 370 Tract 11	804.63'	\$60.00	\$4,800.00 (this is enhanced value, rather than assessment value)

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KEARNEY STREET PAVING AND DRAINAGE IMPROVEMENTS

C.C. No. 89-10

Approved By City Council 2/6/89

Assessment List

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Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
Kearney St. Joint Venture C/O David Cole P. O. Box 850618 Mesquite, Texas 75150	Abst. 1353, Sht. 370, Tract 23	1,342.19'	\$60.00	\$80,531.40
Kearney St. Joint Venture C/O David Cole P. O. Box 850618 Mesquite, Texas 75150	Abst. 1353, Sht. 370 Pt. of Tract 37	286.0'	\$60.00	\$17,160.00
The Pep Boys, Inc. Attn: Joseph Cirelli 32nd Street & Allegheny Philadelphia, Pa. 19132	Landers Addn. Lot 1, Blk. B Abst. 1353, Pg. 370, Pt Of Tract 37 (Plat Not Filed Yet)	610.11'	\$60.00	\$36,606.60
Square D Company Executive Plaza Palatine, Ill. 60067	Landers Addn. Pt. of Lot 2, Blk A, 800 E. Kearney	590.28'	\$60.00	\$35,116.80 (less \$300.00 credit for R.O.W.)
Poncho Hefner P. O. Box 518 Mesquite, Texas 75149	Landers Addn. Lot 1, Blk. A 722 E. Kearney	194.06'	\$60.00	\$11,643.60

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KEARNEY STREET PAVING AND DRAINAGE IMPROVEMENTS

Approved By City Council 2/6/89

C.C. No. 89-10

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Assessment List

Property Owner & Address	Legal	Footage	Unit Cost/LF	Total Assessment Cost
W. E. Newman Electric 706 E. Kearney Street Mesquite, Texas 75149	Landers Addn. Lot 4, Blk A (706 Kearney), Lot 5, Blk A (702 Kearney)	194.06'	\$60.00	\$11,643.60

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