

ORDINANCE NO. 3064

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 ALLEY SOUTH OF SHERYL DRIVE FROM SUSAN DRIVE TO THE EAST LOT LINE OF LOT 14, BLOCK 5, CASA VIEW HEIGHTS ADDITION, NO. 17 PROVIDING FOR A 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 ALLEY, 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 alley by excavating or filling to the grade specified; and by paving with reinforced concrete in accordance with the City's Standard Specifications and the approved engineering plans; and

WHEREAS, thereafter in compliance with the law, the City Engineer prepared statements or lists showing the names of property owners upon said alley, the description of their property, the total cost estimate of the said improvements, the cost thereof per frontage foot and the 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 payment 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 are 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 alley was duly adopted in compliance with the law on the 18th day of September, 1995.

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 alley, their agents and

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attorneys, of said hearing, by publishing a copy of said resolution three times in the City's official newspaper, 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 November, 1995; 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 November, 1995, 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 November, 1995, 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 November, 1995, in the 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 alley 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 or 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 ASSESSMENT LIST AS EXHIBIT "A")

SECTION 3. Where more than one person, firm or corporation owns an interest in any property above described, they shall be personally liable only for their pro rata share of the total assessment against such property in proportion to their ownership of such property. They may be released from the assessment lien upon payment of such proportionate sum.

SECTION 4. 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 nonpayment 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 5. 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, 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 frontage 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 collectable 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 held in compliance with the terms of the applicable law, and that all prerequisites to the fixing of the lien and claims or 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 and 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 certificates, 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 exercise all legal power, when requested to do so by the holder of said certificates, 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 assessment or in the certificates issued in evidence thereof, is in accordance with the law in force in this City, vested in the City.

SECTION 6. 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 names, or may be incorrectly names.

SECTION 7. The assessment herein levied are made and levied under and pursuant to Tex. Rev. Civ. Stat. Ann. Art. 1105b, which 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 8. The assessment 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 9. 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, safety, it is moved that the requirement 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 and take effect as an emergency measure, and shall be in force and effect immediately from and after its passage.

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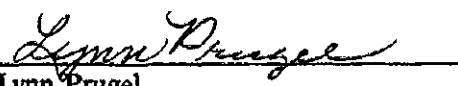
DULY PASSED by the City Council of the City of Mesquite, on the 6th day
of November, 1995.



Cathye Ray
Mayor

ATTEST:

APPROVED:



Lynn Prugel
City Secretary



B.J. Smith
City Attorney

**SHERYL DRIVE ALLEY PAVING IMPROVEMENT
ASSESSMENT LIST
SEPTEMBER 20, 1995**

EXHIBIT "A"
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PROPERTY DESCRIPTION	OWNER AND ADDRESS	DCCAD ACCOUNT NO.	ASSESSED FOOTAGE	ASSESSMENT CHARGE PER FT.	TOTAL ASSESSMENT
3440 SHERYL DRIVE CASA VIEW HGTS. NO.17 LOT 10, BLOCK 5	MARVIN PAUL REX 1609 LEVEE BOX 10642 DALLAS, TEXAS 75207	38036500050100000	93.60'	\$8.00	\$748.80
3436 SHERYL DRIVE CASA VIEW HGTS. NO.17 LOT 11, BLOCK 5	ORA B. FULLINGTON 3436 SHERYL DRIVE MESQUITE, TEXAS 75150	38036500050110000	61.03"	\$8.00	\$488.24
3432 SHERYL DRIVE CASA VIEW HGTS. NO.17 LOT 12, BLOCK 5	MAGGIE PATTON 3432 SHERYL DRIVE MESQUITE, TEXAS 75150	38036500050120000	61.03"	\$8.00	\$488.24
3428 SHERYL DRIVE CASA VIEW HGTS. NO.17 LOT 13, BLOCK 5	JAMES W. JOHNSON 3428 SHERYL DRIVE MESQUITE, TEXAS 75150	38036500050130000	61.03"	\$8.00	\$488.24
3424 SHERYL DRIVE CASA VIEW HGTS. NO.17 LOT 14, BLOCK 5	VELMA VANWEY 3424 SHERYL DRIVE MESQUITE, TEXAS 75150	38036500050140000	34.63'	\$8.00	\$277.04
3504 SUSAN DRIVE CASA VIEW HGTS. NO.17 LOT 9, BLOCK 5	CURTIS M. & MELANEY E. JOHNSON 4518 SCOTTSDALE DRIVE MESQUITE, TEXAS 75150	38036500050090000	283.21'	\$8.00	\$2,265.68

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