

00051

RESOLUTION NO. 5-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, DETERMINING A NECESSITY FOR CERTAIN STREET IMPROVEMENTS, DETERMINING A NECESSITY FOR THE LEVY OF ASSESSMENTS AGAINST PROPERTY BENEFITED BY SAID IMPROVEMENTS AND THE OWNERS THEREOF; DEFINING THE MANNER IN WHICH SUCH IMPROVEMENTS ARE TO BE EFFECTED; APPORTIONING THE COSTS OF SAID IMPROVEMENTS AND PROVIDING AN ASSESSMENT PLAN THEREFOR; DIRECTING THE PREPARATION OF PLANS AND ADVERTISING FOR BIDS FOR SAID IMPROVEMENTS, PROVIDING FOR A PUBLIC HEARING ON SAID IMPROVEMENTS AND DIRECTING THE CITY SECRETARY TO GIVE NOTICE OF SAID PUBLIC HEARING; AND PROVIDING THE EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite deems it necessary to permanently improve the hereinafter named street within the City of Mesquite by paving the said street with 3,000 P.S.I. reinforced concrete pavement meeting the City's Standard Specifications; by constructing concrete driveway approaches and sidewalks, where specified; and by constructing all necessary drainage facilities where specified.

Any existing paving in place, meeting these specifications and which can be utilized, shall be left in place and corresponding credits to the property owners shall be allowed on the assessments; and

WHEREAS, the City Council of the City of Mesquite is of the opinion that it is necessary to levy an assessment against the benefited property and the owners thereof abutting upon the following:

Rustown Drive from the alley south of Apollo Way southeasterly to the proposed Gus Thomasson Gross Road extension,

for a part of the cost of improving said street, fixing a time for the hearing of the owners of said benefited property concerning the same, and directing the City Secretary to give notice of said hearing, as required by law; and

WHEREAS, plans and specifications shall be prepared by the City Engineer for the improvements of said street; and

WHEREAS, the City Engineer of the City of Mesquite in accordance with the law, has filed his report with the City Council setting forth the participation by the owners of the benefited property on the cost thereof, together with the names of the owners and the description of said benefited property and the work to be done adjacent thereto, and the amounts to be assessed against each lot or parcel of land, and its owner, and all other matters required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the following street

Rustown Drive from the alley south of Apollo Way southeasterly to the proposed Gus Thomasson Gross Road extension

shall be improved in the following manner, to-wit:

(1) That said street shall be cut or filled so as to bring the same to grade.

(2) That said street shall be paved with 3,000 P.S.I. reinforced concrete pavement meeting the City's Standard Specifications; by constructing concrete driveway approaches and sidewalks, where specified; and constructing all necessary drainage facilities where specified; and

any existing paving in place, meeting these specifications, or which can be utilized, shall be left in place, if any, and corresponding credits to the property owners shall be allowed on the assessments.

That bids shall be taken for the construction of the work for the type of construction enumerated above, and the work shall be done with the materials and according to plans and methods selected by the City Council after the bids are opened.

That the cost of said improvements shall be paid for as follows; to wit:

(a) The City of Mesquite shall pay ten per cent (10%) of the estimated cost of all such improvements.

(b) Ninety (90%) per cent of the cost of improving said street shall be paid by the owners of the benefited property.

(c) That portion of the costs of improvements assessed to the owners of the benefited property shall be paid by said

RESOLUTION/PAGE 3

owners in the following manner:

The cost shall be assessed against said owners and their property respectively, in accordance with what is known as the "Front-Foot Plan", in such proportion as the frontage of the benefited property of each owner is to the whole frontage improved and shall be payable within thirty (30) days from the date of the completion of said improvements and their acceptance by the City of Mesquite.

Provided that, if the application of the above-mentioned rule of apportionment between property owners would, in the opinion of the City Council, in particular cases be unjust or unequal, it shall be the duty of the said Council to assess and apportion said cost in such manner as it may deem just and equitable, having in view the special benefits in enhanced value to be received by each owner of such property, the equities of owners, and the adjustment of such apportionment, so as to produce a substantial equality of benefits received by and burdens imposed upon such owners.

That no such assessment shall be made against any owner of benefited property until after the notice and hearing provided by law, and no assessment shall be made against an owner of benefited property in excess of the benefits to such property in enhanced value thereof by means of such improvements.

That the contractor shall be paid for the work performed under the specifications, upon monthly estimates to be prepared by the City Engineer. That there shall be deducted as a retainage fee, ten (10%) per cent of such monthly estimates, to be held by the City of Mesquite until the contract is performed and executed to the satisfaction of the City Engineer. The monthly estimates shall be paid on or before the 10th day of the next succeeding month for the work performed during the previous month.

That part of the cost of the improvements that shall be determined to be assessed against the owners of benefited property and their property shall be levied by assessment as herein provided.

That the City Engineer is hereby directed to prepare at once plans and specifications and file the same with the City Council for the hereinabove described improvements. That in the specifications prepared, provision shall be made to require all contractors to give a maintenance bond for a term not longer than five (5) years for all improvements hereinabove described, if, in the judgment of the City Council, it is deemed advisable to require said maintenance bond.

That such specifications shall require the bidder to make a bid upon the improvements above described, with maintenance bond as herein provided.

That the specifications shall also state the amount of the performance payment and bonds which shall equal the amount of the bid, as well as the method by which it is proposed to pay the cost of said improvements, said method being in accordance with this resolution, and said performance and payment bonds shall comply with the terms and provisions of Article 5106 of Vernon's Texas Civil Statutes.

SECTION 2. That the City Secretary be, and she is hereby instructed to advertise for sealed bids for the construction of the improvements called for by this resolution, such advertisement for bids to be published in The Mesquite News, the official publication of the City of Mesquite, which is a newspaper of general circulation in the City of Mesquite. The advertisement shall run one time each week for two weeks, and the bids shall be received not earlier than fourteen (14) days from the date of the first publication. All bids shall be received subject to the terms and provisions of the Charter of the City of Mesquite, and the standard specifications of the City, and shall be filed with the Director of Finance on the date and hours specified and shall be presented to the Council in a public meeting of the City Council.

SECTION 3. That the report or statement filed by the City Engineer having been duly examined is hereby approved.

SECTION 4. That it is hereby found and determined that the estimated cost of improvements on the hereinafter described street, with the amount or amounts per front foot proposed to be assessed for such improvements against benefited property and the owners thereof, are as set out on Exhibit "A" attached hereto which is incorporated herein for all purposes.

SECTION 5. That a hearing shall be given to said owners of abutting property, or their agents or attorneys and all persons interested in said matter, as to the amount to be assessed against each owner and his abutting property, and as to the benefits to said property by reason of said improvement, or any other matter or thing in connection therewith, which hearing shall be held in the Council Chamber of the City Hall of the City of Mesquite, County of Dallas, on the 20th day of February, A.D. 1984, at 3:00 o'clock P.M. at which time all the said owners, their agents or attorneys or other interested persons are notified to appear and to be heard, and at said hearing said owners and other persons may appear, by counsel or in person, and may offer evidence, and said hearing shall be adjourned from day to day until fully accomplished.

The City Secretary of the City of Mesquite is hereby directed to give notice of the time and place of such hearing and of other matters and facts in accordance with the terms and provisions of the Act passed at the First Called Session of the Fortieth Legislature of the State of Texas, and known as Chapter 106 of the Acts of said Session, together with any amendments thereto, now shown as Article 1105b of Vernon's Texas Civil Statutes, which said law, as an alternative method for the construction of street improvements in the City of Mesquite, Texas, has been adopted and made a part of the Charter of said City, being Section 12, Article III of said Charter. Said notice shall be by advertisement inserted at least three times in a newspaper published in the City of Mesquite, Texas, the first publication to be made at least twenty-one (21) days before the date of said hearing. Said notice shall comply with and be in accordance with the terms and provisions of said Act.

The City Secretary is hereby further directed to give notice of said hearing by mailing to said owners, their agents or attorneys, a copy of said notice by mail, deposited in the Post Office at Mesquite, Texas, fourteen (14) days prior to the date of said hearing, provided, however, that any failure of the property owners to receive said notice, shall not invalidate these proceedings.

SECTION 6. The City Council, in initiating this proceeding, is acting under the terms and provisions of the Act passed at the First Called Session of the Fortieth Legislature of the State of Texas, and known as Chapter 106 of the Acts of said Session, together with any amendments thereto, now shown as Article 1105b of Vernon's Texas Civil Statutes, which said law, as an alternative method for the construction of street improvements in the City of Mesquite, Texas, has been adopted and made a part of the Charter of said City, being Section 12, Article III of said Charter.

SECTION 7. That this resolution shall take effect from and after its passage, as in the Charter in such cases is made and provided.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 6th day of February, 1984.


Mrs. Brunhilde Nystrom
Mayor

ATTEST:


Lynn Prugel
City Secretary