

ORDINANCE No. 557

AN ORDINANCE PRESCRIBING THE METHODS AND PROCEDURES FOR MAKING PUBLIC IMPROVEMENTS IN THE CITY OF STAYTON; FOR LEVYING AND COLLECTING SPECIAL ASSESSMENTS THEREFORE; AND FOR THE CREATION AND ENFORCEMENT OF ASSESSMENT LIENS.

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Section 1. Initiation. A public improvement may be initiated:

1. At the request of the Council;
2. At the request of one or more owners of property to be benefitted by the improvement; or
3. As part of a master development plan prepared by or for the City.

Section 2. Survey of Property Owners. When an improvement is initiated, the Public Works Department may cause a survey to be taken of the owners of property to be specially benefitted to determine support or opposition to the proposed improvement. The survey shall inform the owners of:

1. The nature of the proposed improvement.
2. The approximate unit cost of the improvement.
3. The procedure which will be followed should the improvement be approved.
4. The improvement will be abandoned or suspended for six months upon filing of written remonstrances by the owners of two-thirds of the land to be assessed.
5. Such other information as is deemed desirable or necessary.

Section 3. Initial Council Action.

1. If the survey shows support for the improvement project, the project may be submitted to the Council.
2. The Council may by resolution or by motion direct the City Engineer to make a study and written report for the project. Unless the Council directs otherwise, the study shall include the following:
 - a. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

- b. Plans, specifications and estimates of the work to be done; provided, however, that when the proposed project is to be carried out in cooperation with any other governmental agency, the report may adopt the plans, specifications and estimates of such agency.
 - c. An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable to it.
 - d. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted.
 - e. The description and assessed value of each lot, parcel of land, or portion to be specially benefitted by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.
 - f. A statement of outstanding assessments against the property to be assessed.
3. The study shall be filed with the City Administrator.
 4. Based upon the results of the study, the Engineer shall make a written report to the Council.

Section 4. General Obligation Warrants. When issuance of general obligation warrants for the project is contemplated by the City, the following conditions must be satisfied:

1. There must be a legal opinion from the City's Bond Counsel finding a public purpose in the project; and
2. The estimated total assessment for the project must not equal or exceed one and one-half times the total assessed valuation of the benefited properties, as shown by the last County tax roll.

Section 5. Resolution and Notice of Hearing. If the Council approves the report as submitted, the Council shall by resolution declare its intention to make such improvement and direct the City Administrator to give notice of such improvement by publication in a newspaper of general circulation within the City and by mailing copies of such notice by mail to the owners of property to be assessed for the costs of such improvement. The notice shall contain the following:

1. That a written report on the improvement is on file in the office of the City Administrator and is subject to public examination.
2. That the Council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than

ten (10) days following the publication of notice, at which objections and remonstrances to such improvement will be heard by the Council; and that if, prior to such hearing, there are presented to the City Administrator valid written remonstrances on forms provided by the City of the owners of two-thirds of the property to be specially benefited by such improvement, then the improvement will be abandoned for at least six months.

3. A description of the property to be specially benefited by the improvement, the estimated total cost of the improvement to be paid for by special assessments to benefited properties, and an estimate of the unit cost of the improvement to the property to be specially assessed.
4. When the improvement is a sidewalk, the Council may order the owners of the lots adjacent to the proposed sidewalk to construct the sidewalk, at their expense, under the supervision of the Engineer, and conforming to certain plans and specifications, and that upon failure to do so, the City will cause the sidewalk to be constructed and a lien will be placed against the property adjacent to the site of such sidewalk for the cost thereof.

Section 6. Manner of Doing Work.

1. The Council may provide in the improvement resolution that the construction work may be done in whole or in part by the City, by a contract, by any other governmental agency, or by any combination thereof.
2. When the improvement involves construction or reconstruction of a sidewalk, the Council may provide in the improvement resolution that the improvement work may be done by the owner and at his/her expense, pursuant to the procedure set forth in the Code.

Section 7. Hearing. At the time of the public hearing on the proposed improvement, if the written remonstrances represent less than the amount of property required to defeat the proposed improvement, then on the basis of the hearing or written remonstrances and oral objections, if any, the Council may by motion, at the time of the hearing or within 60 days thereafter, order the improvement to be carried out in accordance with the resolution; or the Council may, on its own motion, abandon the improvement.

Section 8. Call for Bids. The Council may direct the Administrator to advertise for bids for construction of all or any part of the improvement project on the basis of the Council-approved report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after the public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrances and oral objection to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids,

then the Council shall determine the time and manner of advertisement for bids, and the contracts may be let to the responsible bidder whose bid is in the best interests of the City, as determined is the sole discretion of the Council, provided that the Council shall have the right to reject any or all bids when they are deemed unreasonable or unsatisfactory in the Council's discretion. The City shall provide for the bonding of all contractors for the faithful performance of any contract let under its authority, and the provisions thereof in case of default shall be enforced by action in the name of the City of Stayton.

Section 9. Notice of Proposed Assessment. If the Council determines that the local improvement shall be made, when the estimated cost is ascertained on the basis of the City Engineer's estimate, or the contract award, or City departmental cost, or after the work is done and the cost thereof has been actually determined, the Council shall determine whether the property benefited shall bear all or a portion of the cost. "Cost" shall include the direct administrative overhead costs incurred by the City pertaining to the improvement project. The Administrator or person designated by the Council shall prepare the proposed assessment to the respective lots within the assessment district and file it in the appropriate City office. Notice of the proposed assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed. The notice shall state the amounts of assessments proposed on that property and shall fix a date by which time objections shall be filed with the Administrator. Any objection shall state the grounds thereof.

Section 10. Assessment Ordinance. The Council shall consider any objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvements and shall by ordinance spread the assessments.

Section 11. Method of Assessment and Alternative Methods of Financing.

1. The Council, in adopting a method of assessment of the costs of the improvement, may:
 - a. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.
 - b. Use any method of apportioning the sum to be assessed as is just and reasonable among the properties determined to be specially benefited.
 - c. Authorize payment by the City of all or any part of the cost of any such improvement when, in the opinion of the Council, the topographical or physical conditions, or unusual or excessive public travel, or other character of the work

involved, warrants only a partial payment or no payment by the benefited property of the costs of the improvement.

2. Nothing contained in this chapter shall preclude the Council from using any other available means of financing improvements, including Federal or State grants-in-aid, other charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. If such other means of financing improvements are used, the Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement.

Section 12. Notice of Assessment. Within 10 days after the ordinance levying assessment has been passed, the Administrator shall send by registered or certified mail a notice of assessment to the owner of the assessed property and shall publish notice of such assessment twice in a newspaper of general circulation in the City. The first publication shall be made not later than 10 days after the date of the assessment ordinance. The notice of assessment shall recite the date of the assessment ordinance and shall state that, upon the failure of the owner of the property assessed to make application to pay the assessment in installments within 30 days from the date of the first publication of the notice, or upon the failure of the owner to pay the assessment in full within 30 days from the date of the assessment ordinance, interest will commence to run on the assessment and the property assessed will be subject to foreclosure. The notice shall also describe the property assessed, name the owner of the property and state the amount of each assessment.

Section 13. Liens, Lien Records and Interest. After passage of the assessment ordinance by the Council, the City Finance Officer shall enter in the docket of City liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners, and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof which have been assessed for such improvement. All assessment liens of the City shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the State permit. Interest shall be charged at the rate set by the Council up to a maximum allowed by law until paid on all amounts not paid within 30 days from the date of the assessment ordinance.

Section 14. Foreclosure Proceedings. After expiration of 30 days from the date of the assessment ordinance, the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the State; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State to redeem such property.

Section 15. Errors in Assessment Calculations. Claimed errors in the calculation of assessments shall be called to the attention of the Administrator, who shall determine whether there has been an error in fact. Upon finding an error in fact, the Administrator shall recommend to the Council an amendment to the assessment ordinance. Following enactment of the amendment, the Administrator shall make the necessary correction in the docket of City liens and send a correct notice of assessment to the owner by certified mail.

Section 16. Deficit Assessment. If an assessment is made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Council may by motion declare such deficit and prepare a proposed deficit assessment. The Council shall set a time for a hearing of objection to such deficit assessment and shall direct the Administrator to give notice according to the provisions in Section 5. After the hearing, the Council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the docket of City liens as provided by Section 13. Notices of the deficit assessment shall be published and mailed, and the collection of the assessment shall be made, in accordance with Sections 12 and 13.

Section 17. Rebates. If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the Council must ascertain and declare the same by ordinance. When so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the assessment, or his/her legal representative, shall be entitled to the repayment of the rebate credit or the portion thereof which exceeds the amount unpaid on the original assessment.

Section 18. Abandonment of Proceedings. The Council shall have full power and authority to abandon and rescind proceedings for improvements made pursuant to this chapter at any time prior to the final completion of such improvements. If liens have been assessed upon any property under these procedures, they shall be cancelled and any payments made on such assessments shall be refunded to the person paying them, his/her assigns or legal representatives.

Section 19. Curative Provisions.

1. No improvement assessment shall be rendered invalid by reason of:
 - a. Failure of the report to contain all of the information required by Section 3;
 - b. Failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket, or notices required to be published and mailed;

- c. Failure to list the name of, or mail notice to, the owner of any property as required by this Ordinance; or
 - d. Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining.
2. The Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

Section 20. Reassessment. Whenever any assessment, deficit or reassessment for any improvement which has been made by the City is set aside, annulled, declared or rendered void, or its enforcement is restrained by any court of this State, or any Federal court having jurisdiction thereof, or when the Council is in doubt as to the validity of such assessment, deficit assessment or reassessment or any part thereof, the Council may make a reassessment in the manner provided by the laws of the State.

PASSED BY THE COMMON COUNCIL THIS 6th DAY OF July, 1981.

Signed by the Mayor this 9th day of July, 1981.

Henry A. Porter
Mayor

ATTEST:

Ellen Vandenberg
City Administrator