

ORDINANCE NO. 54

AN ORDINANCE FIXING LIENS AGAINST CERTAIN REAL ESTATE LOCATED IN THE CITY OF WHEELER, WHEELER COUNTY, TEXAS, ABUTTING UPON A CERTAIN STREET IN SAID CITY; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREET WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF COST OF SAID IMPROVEMENTS AS ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PROPORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED; FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES AND THE OWNERSHIP OF WHICH HAVE NOT HERETOFORE PAID FOR SUCH STREET IMPROVEMENTS, THE REAL AND TRUE OWNERS THEREOF, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEELER, WHEELER COUNTY, TEXAS:

SECTION I.

A.

The City Council of the City of Wheeler, Texas, has hereto fore determined the necessity for and ordered the improvement of a portion of Second Street, situated between Shamrock Street and Canadian Street, lying in the said City of Wheeler, Texas, and in the manner and according to the plans and specifications therefor, which plans and specifications have heretofore been approved and adopted by the City Council.

B.

The said City Council after having advertised for bids in the manner as required by law, did award the contract to the best and lowest bidder therefor.

C.

The City Council caused the City Engineer to prepare and file estimates of the costs of such improvements and estimates of the amount per front foot proposed to be assessed against the property abutting such street within the limits therein defined, and against the real and true owners thereof. The City Council, upon the finding of such estimates, did give all property owners who owned an interest in any property abutting such street an opportunity to appear and be heard in person or by counsel.

D.

The City Council has heard all parties who appeared and desired to be heard as to the special benefits, enhanced value to accrue to said abutting property and the real and true owners thereof as compared with the portion of the cost of constructing said improvements proposed to be assessed against said abutting property, and has heard all parties appearing and offering testimony, together with all objections and protests relative to any errors, invalidities or irregularities in any of the proceedings and contract for said improvements, and has given a full and fair hearing to all parties making or desiring to make any such protest or objection or to offer testimony, has fully examined and considered all of said evidence, matters, testimony and objections offered.

E.

The City Council has determined that based on the evidence, matters, testimony, and objections considered at such hearing, that the properties, and each and every parcel of such property abutting upon the streets as hereinafter set out, will be enhanced in value and specially benefited in an amount in excess of the amount of the cost of such improvements proposed to be, and as hereinafter assessed against each of said parcels of property, abutting upon said street and the real and true owners thereof.

F.

The City Council is of the opinion and finds that the Front Foot Plan of Rule, would result in a fair and equitable manner of determining the cost and the assessment against each property owner, having in view the special benefits to the enhanced value of the properties, and the said City Council finds this rule to be just and equitable and to substantial equality considering the benefits to be received and the burdens imposed thereby; and said City Council has found that the assessments hereinafter made and the charges hereby declared against said abutting properties and the real true owners thereof are just and equitable and that all objections and protests should be overruled and denied.

SECTION II.

There being no further protests or testimony for or against or in reference to said improvements, benefits or proceedings, said hearing granted to the real and true owners of properties abutting upon said streets within the limits herein defined, and to all persons, firms, corporations and estates, owning or claiming same or any interest therein, shall be, and the same is hereby closed, and all protests and objections whether specifically mentioned, or not, shall be, and the same are hereby overruled and denied.

SECTION III.

The City Council hereby finds and determines upon the evidence heard in reference to each and every parcel of property abutting upon the streets hereinafter set out that the enhancement in value to accrue to said property and the real and true owners thereof by virtue of the construction of said improvements in said portions of said streets, will be in excess of the amount of the costs of said improvements proposed to be, and as herein assessed against said abutting properties and the real and true owners thereof; and finds that the apportionment of the costs of said improvements and the assessments hereinbelow made are just and equitable and produce substantial equality, considering the benefits received and the burdens imposed thereby, and are in accordance with the laws of the State of Texas and further finds that all proceedings and contracts heretofore had with reference to said improvements are in all respects regular, proper and valid, and that all prerequisites to the fixing of the assessment liens against said abutting properties, as hereinafter described, and the personal liability of the real and true owners thereof, whether named or correctly named herein or not, have been in all things regularly had and performed in compliance with the law and the proceedings of the said City Council.

SECTION IV.

In pursuance of said Ordinance duly enacted by said City Council authorizing and ordering the improvement of said streets as hereinbelow set out, and in pursuance of said proceedings heretofore had and enacted by said City Council in reference to said improvements and by virtue of the powers vested in said City with respect to said street improvements by the laws of the State of Texas, with particular reference to Chapter 106 of the Acts of the First Called Session of the 40th Legislature of the State of Texas, known and shown as Article 1105-b Vernon's Annotated Civil Statutes of Texas, as amended, there shall be, and is hereby levied, assessed and taxed against the respective parcels of property hereinafter described and abutting upon the said street hereinafter set out and within the limits below defined and against the real and true owners of such property whether such real and true owners be named or correctly named, or said properties be correctly described herein or not, the several sums of money hereinbelow mentioned and itemized opposite the description of the respective parcels of said property, the number of front feet of each, and the several amounts assessed against same and the real and true owners thereof, and the names of the apparent owners thereof, all as corrected and adjusted by said City Council, being as follows, to-wit:

NAME OF OWNER	DESCRIPTION OF PROPERTY	ASSESSMENT PER FOOT	TOTAL ASSESSMENT
Lillie May Conwell, et al	Lot 1 and N 35' of Lot 2, Blk. 8, of the original town of Wheeler, Texas	\$ 3.90	\$ 546.00
L. A. Roach and wife, Betty Roach	N/2 of Lot 11 and all of Lot 12, Blk. 9, of the original town of Wheeler, Texas.	\$ 3.90	\$ 546.00

R. D. Holdeman E 95' of Lots 1
and 2, Block 9,
of the original
town of Wheeler,
Texas

\$ 3.90

\$ 370.50

The total cost of the paving project is \$11,295.99, and the City of Wheeler, Texas, has paid \$6,385.99, and the property owners have been assessed the sum of \$4,910.00. All property owners assessed have paid in cash the amount of the assessments except those shown above, which owners have paid no part of such assessments.

SECTION V.

The several sums mentioned above in Section IV hereof, assessed against said parcels of abutting property and the real and true owners thereof, whether said owners be named or correctly named, or said properties be correctly described herein or not, together with interest thereon at the rate of five (5) per cent per annum and with reasonable attorney's fees and all costs and expense of collection, if incurred, are hereby declared to be and made a first and prior lien upon the respective parcels of property against which same are assessed from and after the date said improvements were ordered by said City Council, and a personal liability and charge against the real and true owner or owners thereof, whether or not such owner or owners be named or correctly named herein, paramount and superior to all other liens, claims or titles except for lawful ad valorem taxes; and that the sums so assessed shall be payable to the City of Wheeler, or its assigns as follows, to-wit: in three equal annual installments, the first of which will be payable on or before September 1, 1968, and the two remaining installments are due and payable on or before September 1, 1969, and September 1, 1970, respectively, deferred payments to bear interest from such due date at the rate of ten percent (10%) per annum, payable annually, past due installments of principal to bear interest at the same rate per annum until paid, however, any owner of such property shall have the right to pay off the entire amount of any such assessment, or any installment thereof before maturity by paying principal and accrued interest to date of said payment; and provided further, that if default shall be made in the payment of any installment of principal or interest when due, then the entire amount of said assessment upon which default is made, at the option of the City of Wheeler, or its assigns, shall be and become immediately due and payable and shall be collectible, together with reasonable attorney's fees and all cost and expenses of collection, if incurred.

SECTION VI.

If default shall be made in the payment of any of said sums herein assessed against the said parcels of property, and the real and true owner or owners thereof, collection thereof shall be enforced, at the option of the City of Wheeler, or its assigns, either by suit in any court having jurisdiction, or by sale of the property assessed as nearly as possible in the manner as may be provided by law in force in said City for the sale of property for the collection of ad valorem taxes.

OF SAID VARIOUS PARCELS.

SECTION VII.

All such assessments levied are, and shall be a personal liability and charge against the respective real and true owner or owners of said abutting properties, notwithstanding such owner or owners may not be named or correctly named, and any irregularity in the name of the property owner, or the description of any property or the amount of any assessment, or in any other matter or thing shall not in anywise invalidate or impair any assessment levied hereby and any such mistake, or error, invalidity or irregularity, whether in such assessment, may be, but is not required to be, in order to be enforceable, corrected at any time by the City Council or the City of Wheeler, Texas.

The total amounts assessed against the respective parcels of property abutting upon the street above set out, and the real and true owner or owners thereof, are the same or less than, the estimates of said assessments prepared by the City Engineer and approved and adopted by said City Council, and are in accordance with the proceedings of said City relative to said improvements and assessments therefor, and with the terms, powers and provisions of said Chapter 106 of the Acts of the First Called Session of the 40th Legislature of the State of Texas, commonly known as Article 1105-b of Vernon's Annotated Civil Statutes of Texas, as amended, under which terms provisions and powers of said Acts said improvements and assessments were had and made by said City Council.

SECTION VIII.

This Ordinance shall be effective and in full force from and after its passage as provided by law, and it is so ordained.

PASSED this the 18th day of March, 1968, by an affirmative vote of four-fifths (4/5) or more of the City Council

APPROVED This the 18th day of March, 1968.

Don Earney,
Mayor

ATTEST:

Mildred Ramsey
City Secretary

Copied from Ordinance book, January 1969