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Rep. Sec. 17 3462

ORDINANCE NO. 2864

TITLE: An ordinance prescribing the method and procedure to be followed in making public improvements and providing for the making of assessments therefor, providing for the enforcement and collection of the assessments, and for the foreclosure of liens created thereby and repealing Ordinance No. 2723.

THE PEOPLE OF THE CITY OF ALBANY DO CRDAIN AS FOLLOWS:

Section 1: DECLARATION OF INTENTION TO IMPROVE.

Whenever the Council shall deem it expedient to construct, alter or improve any street, sewer, sidewalk or drain, the Council shall, by Resolution, on or before March 15, of the year in which the improvement is to be made, declare its intention to initiate such improvement and direct the City Engineer to submit a report in writing.

In the event the Council initiates an improvement and the Resolution shall be passed after March 15th, of any given year, then no construction work shall commence on the improvement before January 1st of the following year, except where an emergency is declared to exist.

Section 2: ENGINEER REPORT.

The report of the Engineer shall be filed with the Recorder on or before the 15th day of April, in the year in which the improvement is to be made. The report shall contain the following information for each project:

- a) A full description of the project.
- b) A description of each parcel of land specially benefited.
- c) The record owner of each parcel.
- d) The name and last known address of the person currently assessed for each parcel as shown by the records of the Linn County Assessor.
- e) An estimate of the probable cost of the project, including legal, administrative and engineer costs.
- f) A recommendation of a fair apportionment of the whole or any portion of the costs of the project to the property specifically benefited.
- g) A recommendation of a method of assessment, together with an estimate of the cost per unit to the property specifically benefited.
- h) A list of all easements necessary and estimates of costs of obtaining same.
- i) Recommendations as to the order of preference to be given each project and recommendations as to which proposed projects should be adopted by the Council, taking into consideration the number of persons to be benefited and the work capacity of the engineer's office as well as any other consideration he deems important.
- j) Recommendation as to the desirability of any proposals made under Plan Two as set forth in Section 6 of this Ordinance.

Section 3: EMERGENCIES

In the event the Council shall declare by unanimous vote that an emergency exists and that an improvement is essential to the welfare of the City, the procedure described in Sections 1 and 2 shall be followed. EXCEPT that the Council may then declare its intention to initiate the improvement at any time and the Engineer's report shall be completed and construction work shall commence as soon as is reasonably possible.

Section 4: NOTICE OF INTENDED IMPROVEMENT.

Upon filing the report, the Recorder shall forthwith give notice of the proposed improvement by posting the notice in the City Hall and by certified mail addressed to the last known address of the person currently assessed for the property as shown by the records of the Linn County Assessor that a hearing will be held to hear objections, if any, to the proposed improvement.

The notice must be mailed and posted at least ten (10) days prior to the hearing date.

The notice shall contain the following information and such other information that may be necessary to explain the improvement and the procedure:

ORDINANCE NO. 2884 CONT'D

- a) A brief description of the project.
- b) The intention to improve.
- c) Estimated total cost and unit cost of the improvement.
- d) To present objections, if any, at the hearing, giving the date.

The Recorder shall record one copy of the notice in the miscellaneous records of Linn County.

Section 5: HEARING.

If the Council, after hearing the objections, if any, and after due consideration of the recommendations of preference made by the City Engineer, shall find such report to be reasonable and just, it may adopt the same or amend, and, as amended, adopt the same by Resolution. It may require a supplementary report from the City Engineer.

Section 6: CONSTRUCTION OF THE IMPROVEMENT.

All designing, inspection and engineering work shall be done by the City.

Either of the following two methods for obtaining the construction of any one or all of the desired improvements may be adopted by the Council:

PLAN ONE: The Resolution adopting the report, or the report as amended, of the City Engineer shall direct the City Manager to proceed with obtaining pre-qualification statements from those persons who desire to bid on the improvement. The City Engineer shall examine all prequalification statements and shall report to the City Manager as to those persons or firms, if any, whom he believes are not qualified to bid. This recommendation shall be based upon past performance, experience, financial standing, and other factors which the City Engineer deems material to the qualifications of a person or firm. The City Manager shall proceed to advertise and obtain bids from those contractors who qualify.

PLAN TWO: After the adoption of the Resolution approving the report of the City Engineer, but before construction of the project, the property owner or owners who would be assessed for the project may elect to undertake construction of the improvement. In this event, the owner or owners must:

- a) Post a bond in an amount equal to the total estimated cost of the improvement. Said bond shall state in express terms that the entire face value of the bond shall be forfeited if the improvement, in the opinion of the City Engineer, becomes faulty within two (2) years of the completion date of the project; that the bond shall remain in force until final approval has been filed with the City Recorder or until said bond is forfeited, whichever is the shorter period; that forfeiture of said bond shall take place if the City Engineer files notice with the City Recorder that the work is not satisfactory. The terms of this bond must be approved by the City Manager.
- b) Pay to the City a sum equal to 15% of the estimated cost of the improvement as determined by the City Engineer, in the case of streets and sidewalks, and 13% of said cost in the case of all other improvements.

Nothing herein shall prevent the Council from authorizing public improvements by the City itself.

Section 8: METHOD OF ASSESSMENT.

The Council may:

- a) Use any just and reasonable method of determining the extent of any improvement district consistent with benefits derived.
- b) When, in the opinion of the Council, on account of topographical or physical layout, unusual or excessive public travel, or other character of work is involved, or when the Council otherwise believes the situation warrants it, it may pay what it deems a fair proportion of the cost of the improvement in relation to the benefits derived by the property directly benefited from funds of the city, and the amount to be assessed to the property shall be proportionately reduced.

Section 9: ASSESSMENTS

After the adoption of the Engineer's report as provided in Section 5 above, the Council shall have authority to assess the property specifically benefited.

ORDINANCE NO. 2664 CONT'D

This shall be done by ordinance. The assessments may be made immediately or the Council may finance the improvements by special improvement warrants as provided in 287.502 CRS and assess the specifically benefited property at the completion of the improvements and total costs determined. This section shall not apply to any improvements obtained by use of Plan Two as described in Section 6.

Section 10: ALTERNATIVE METHODS OF FINANCING.

Nothing herein shall preclude the Council from using other available means of financing improvements, including federal or state grants-in-aid, sewer service charges, revenue bonds, general obligation bonds. In the event any of such other means of financing are used, the Council may, in its discretion, levy special assessments hereunder to cover any part of the costs of the improvements not covered by such means. This section shall not apply to any improvements obtained by use of Plan Two as described in Section 6.

Section 11: LIEN RECORDING, COLLECTION OF ASSESSMENTS.

After assessment, the Recorder shall enter in the city lien docket a statement of the respective amounts assessed upon each particular parcel of land, with the names of the record owners and the name and last known address of the person currently assessed for the parcel as shown by the records of the Linn County Assessor. The amounts so entered shall be immediately due and payable and shall be a lien upon the parcels of land against which the same are placed. Such liens shall have priority over all other liens, except as otherwise provided by law.

The Recorder shall forthwith give notice of assessment by mail to the person currently assessed for the property as shown by the records of the Linn County Assessor. Interest shall be charged at the rate of ten per cent (10%) per annum on all amounts not paid or "Bancrofted" within thirty (30) days from the date of entry in the lien docket.

The City may use any method authorized by law to enforce collection of delinquent liens. The liens shall be considered delinquent if not paid or "Bancrofted" within thirty (30) days after entry on the lien docket.

Section 12: ABANDONMENT OF PROCEEDINGS.

The Council shall have authority to abandon proceedings at any time prior to their final consummation, and, if liens have been assessed, they shall be cancelled and any payments refunded to the payor, his assigns or legal representatives.

Section 13: CURATIVE PROVISIONS.

No such assessment shall be invalid by reason of a failure to give any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket or elsewhere in the proceedings, the name of the owner of any parcel of land or the name of any person having a lien upon or interest therein, or by a mistake the name of any other person, unless it appears that reasonable notice has not been given of the hearing upon the report or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the Council shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

Section 14: EFFECTIVE DATE.

This ordinance, as amended, shall become effective thirty (30) days after the date of the adoption thereof.

Passed by the Council: September 9, 1959

Approved by the Mayor: September 9, 1959

W. R. [Signature]
Mayor

Effective Date: October 9, 1959

ATTEST:

Ernest M. Boham
City Recorder