

CITY OF BELLEVUE, WASHINGTON

ORIGINAL

ORDINANCE NO. 593

AN ORDINANCE amending Ordinance No. 359, which ordered the improvement of 106th Avenue N.E. between Main Street and N.E. 8th Street, in Bellevue, Washington, by paving and otherwise improving the same and created a Local Improvement District therefor; finding that assessment by the termini and zone method alone will not fairly reflect the special benefits conferred on the various properties within the District; and providing that payment of the cost of the right-of-way acquisition and physical improvement be made by special assessments against the property benefitted;

WHEREAS the City Council has received a petition from owners of property aggregating a majority (1) of the lineal frontage upon the improvement and (2) of the area within the proposed district, petitioning for the construction and installation of 106th Avenue N.E., within three separate, continuous units of the improvement, by paving the same with bituminous or portland cement concrete paving, including the securing of necessary right-of-way, and including grading, regrading, filling, compacting, surfacing, draining, and the installation of drain inlets, storm sewers, curbs, and other appurtenances consistent with good street construction; and for the establishment of an improvement district, the assessment district for which does not extend beyond the termini of the improvement, and the petitions asking that the improvement district be comprised of three separate, continuous units of the improvement for assessment purposes, Main Street to N.E. Second, N.E. Second to N.E. 6th and N.E. 6th to N.E. 8th; and the City Council having considered the public interest and convenience, the estimated cost and all other pertinent factors; and the City having undertaken and completed the improvement as petitioned for, pursuant to Ordinance No. 359 of the City of Bellevue; and

WHEREAS, prior to the adoption of Ordinance No. 359 the city engineer caused an estimate to be made of the cost and expense of the proposed improvement, including the cost and expense of each of the three separate, continuous units of the improvement, and has certified it to the City Council, together with all papers and information in his possession touching the proposed improvement, a description of the boundaries of the district, descriptions of the boundaries of the three separate, continuous units of the improvement for assessment purposes, a statement of the portions of the cost and expense of the improvement to be borne by the three separate, continuous units of the improvement to be established within the proposed district for assessment purposes, a statement in detail of the local improvement assessments outstanding and unpaid against the property in the proposed district, a statement of the aggregate actual valuation of the real estate including 25% of the actual valuation of the improvements in the proposed district according to the valuation last placed upon it for the purposes of general taxation prior to the enactment of Ordinance No. 359; and

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WHEREAS prior to the enactment of Ordinance No. 359 the city engineer also determined the sufficiency of the petition and found that the facts set forth therein were true; and whereas estimates were duly filed in the office of the city engineer together with a detailed copy of the preliminary assessment roll and assessment maps of the proposed improvement; and

WHEREAS subsequent to the completion of the improvements the legal sufficiency of the proceedings of L.I.D. No. 59-S-13, and the method of assessment pursued by the city engineer and the City Council in the preparation and adoption of the final assessment roll in Ordinance No. 569 have been questioned and particularly the intention of the City Council with regard to the mode of assessment selected by the Council has been questioned, it being alleged that Ordinance No. 359 fails to invoke the special benefits mode of assessment and it being alleged that the City Council elected to assess solely and singularly by the zone and termini method therein; and

WHEREAS at the time of the enactment and adoption of Ordinance No. 359 and at the present time it was and is the intention and policy of the City Council to assess local improvement districts by the zone and termini method where that method fairly reflects the special benefits conferred on the various properties within the district, but it is the policy and intent of the City Council to assess by the special benefit method in cases where such special benefits are not fairly reflected by such method; and

WHEREAS in L.I.D. No. 59-S-13 a majority of the property owners have petitioned the City Council to be assessed in accordance with the special benefits conferred by the improvement, treating three distinct and separate areas of the L.I.D. in a separate and different manner, depending upon the special benefits which will be conferred upon each of such districts by the acquisition of additional property interest in rights-of-way for the improvement, and the City Council has consulted with real property experts, legal counsel, its staff, and has individual, personal knowledge of the area within the local improvement district, at the time of the enactment of Ordinance No. 359 had knowledge of the probable effect of the improvement upon the respective properties, at this time has not only the benefit of prior work but has individually personally observed the benefit accruing to the respective properties within the local improvement district by reason of the acquisition of the additional rights-of-way in the respective assessment units of the district and, further, their improvement according to the standards and specifications for the street, and the City Council having conducted a hearing on a final assessment roll in February, 1963, involving this L.I.D. and having the benefit of the statements made therein by some of the property owners and the staff of the City of Bellevue; and

WHEREAS the City has heretofore issued warrants from time to time to the successful bidder as provided for in Sections 9 and 10 of Ordinance No. 359 which warrants are presently outstanding; now therefore

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THE CITY COUNCIL OF THE CITY OF BELLEVUE DO ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 359, Section 3, is hereby amended to read:

Assessment of cost. The City Council finds as a fact that the nature of the improvement in this L.I.D. is such that the special benefits conferred on the property are not fairly reflected by the use of the termini and zone method because in the respective units described in the foregoing section the pre-existing status of the proposed right-of-way was different in each respective unit. In Unit A some effective right-of-way existed by reason of a system of easements and cross easements between private property owners. The City Council finds as a fact that the public had some prescriptive right to pass over the existing right-of-way but additional acquisition of title to the right-of-way was necessary. Nevertheless, the properties within that unit were served by a street, quasi-public in nature. In Unit B a full-width dedicated right-of-way existed. In Unit C no right-of-way whatsoever existed over which the public had any right to travel. The acquisition of full-width public right-of-way in each of these respective units created special benefits to the respective properties within the units different in character from the special benefits resulting to the properties in the other units.

Accordingly, all of the costs and expense in connection with the acquisition of rights-of-way property, easements and other facilities or rights-of-way and all other expenses incidental thereto as required or provided by the laws of the State of Washington and the ordinances of the City of Bellevue shall be assessed on the basis of the special benefits accruing to the respective properties benefitted thereby in such proportion as shall be determined to be representative of the special benefits accruing to the properties effected.

Because the physical improvement of the right-of-way with streets and their appurtenances will be identical throughout the local improvement district, the City Council finds that the special benefits accruing to the respective properties by reason of the physical improvements to the right-of-way are of such nature that the special benefits conferred upon the respective properties to be assessed will be fairly reflected by the use of the termini and zone method provided by statute. Accordingly, all of the costs and expense in connection with the installation and construction of said improvement, including the actual cost and expense of (a) the improvement within street intersections, (b) all engineering and surveying necessary for the physical improvement, whether done under the supervision of the city engineer or otherwise, (c) all legal work and opinions incidental thereto (as distinguished from the legal work and opinions incidental to the right-of-way acquisition which shall be assessed as provided above), (d) ascertaining the ownership of lots or parcels of land included within the assessment district (except as such work is solely for the purpose of the acquisition of rights of way, in which

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case it will be assessed as provided above), (e) advertising, mailing, posting and publishing all necessary notices in connection with the local improvement district except as such expenses relate to the acquisition of right-of-way in which case the latter expenses shall be assessed on the basis of special benefits as provided above, (f) accounting, clerical labor and cost of books and blanks extended or used on the part of the city clerk or treasurer in connection with the improvement (except as such costs may be involved in the acquisition of rights-of-way in which case it should be assessed as provided above) shall be allocated to and borne by the respective properties within the local improvement district in accordance with the special benefits conferred and the costs assessed against the individual lots in accordance with the statutory zone and termini method.

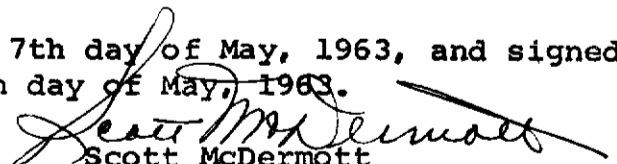
Ordinance No. 359, Section 5, is hereby amended to read as follows:

Section 5. Assessment subdivisions. There are hereby created three assessments subdivisions, comprised of the three units described in Section 2 of Ordinance No. 359, which three units comprise all of the property within local improvement district No. 59-S-13 specially benefitted by the improvement ordered in Ordinance No. 359. The City Council finds that the property within each of these respective assessment subdivisions is specially benefitted by the acquisition of right-of-way within the respective subdivisions in a manner unlike the properties in the other subdivisions. The property within subdivisions A and C are specially benefitted by the acquisition of rights-of-way within the respective subdivisions and, accordingly, the property within each of these subdivisions shall be assessed to pay the costs and expense of the right-of-way acquisition within their respective subdivision. The costs and expense of the acquisition of right-of-way within each respective subdivision shall be ascertained separately, as near as may be, and the assessment rate shall be computed on the basis of the cost and expense of each respective subdivision and shall be assessed against the property within that subdivision in accordance with the special benefits conferred thereon.

Section 2. Ordinance No. 359 is hereby amended by deleting Section 6 thereof.

Section 3. An emergency exists, making the immediate passage of this Ordinance necessary for the preservation of public health, safety and general welfare in the City of Bellevue, and the same shall take effect immediately upon its passage, approval and publication.

PASSED by the City Council on this 7th day of May, 1963, and signed in authentication of its passage this 7th day of May, 1963.

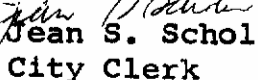

Scott McDermott
Mayor

(SEAL)

Approved as to Form:


Joseph S. Miller
City Attorney

Attest:


Jean S. Scholer
City Clerk

FILED NO. 0263
CITY OF BELLEVUE
DATE May 9, 1963
CITY CLERK Jean Scholer

Published May 9, 1963