

ORDINANCE NO. 2325

AN ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR IMPROVEMENT DISTRICT NO. ST-86, PHASE B, IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; APPROVING THE APPORTIONMENT OF SAID COST AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT.

WHEREAS, the City Council and Municipal Officers of the City of Grand Junction, in the State of Colorado, have complied with all the provisions of law relating to certain improvements in Improvement District No. ST-86, Phase B, in the City of Grand Junction, pursuant to Ordinance No. 178 of said City, adopted and approved June 11, 1910, as amended, being Chapter 18 of the Code of Ordinances of the City of Grand Junction, Colorado, and pursuant to the various resolutions, orders and proceedings taken under said Ordinance; and

WHEREAS, the City Council has heretofore caused to be published the Notice of Completion of said local improvements in said Improvement District No. ST-86, Phase B, and the apportionment of the cost thereof to all persons interested and to the owners of real estate which is described therein, said real estate comprising the district of land known as Improvement District No. ST-86, Phase B, in the City of Grand Junction, Colorado, which said Notice was caused to be published in The Daily Sentinel, the official newspaper of the City of Grand Junction (in the first publication thereof appearing on December 21, 1986, and the last publication thereof appearing on December 29, 1986; and

WHEREAS, said Notice recited the share to be apportioned to and upon each lot or tract of land within said District assessable for said improvements and recited that complaints or objections might be made in writing to the Council and filed with the Clerk within thirty (30) days from the first publication of said Notice, to wit: on or before and up to 5:00 o'clock P.M. on the 20th day of January, 1987, and recited that such complaints would be heard and determined by the Council at its first regular meeting after the said thirty days and before the passage of any ordinance assessing the cost of said improvements; and

WHEREAS, pursuant to said Notice a letter was sent by Enno F. Heuscher and Pauline Heuscher objecting to their assessments on Mountain View Court, and materials were presented on behalf of Pearl A. Moore and Charles D. Roberts and Marcella A. Roberts objecting to the assessments on their corner lots not fronting on Mountain View Court; and

WHEREAS, the City Council hereby finds as to the objections as

follows:

Heuscher Properties: The Heuschers were among the petitioners for the improvement of Mountain View Court. Since they are not being charged in excess of the amount per front foot specified in the petition, they cannot now be heard to deny the benefit which they agreed to by the petition.

Moore and Roberts Properties: Previous City Councils have for several years recognized that fully-developed, single-family corner lots in a platted subdivision do not benefit to the extent represented by full cost of improvements on both abutting streets. The previous policy of assessment has been to assess for the longer assessment side of the property. It is the opinion of this Council that a better rule is to provide for assessment only for improvements made to the street on which the residence is facing and where primary access is at the time of the improvement of that street.

17th Street Assessments: Objection has been made in earlier proceedings as to the assessment of the Pearl Hoyt property. These objections did not go to the benefit of the property essentially but toward the difficulty of paying an assessment as large as the one proposed. The City Council believes that the property is benefitted to at least the amount of the assessment and will work with the owner on the paying off of the assessment; and

WHEREAS, the City Council has fully confirmed the statement prepared by the City Engineer and certified by the President of the Council showing the assessable cost of said improvements and the apportionment thereof heretofore made as contained in that certain Notice to property owners in Improvement District No. ST-86, Phase B, duly published in The Daily Sentinel, the official newspaper of the City, and has duly ordered that the cost of said improvements in said Improvement District No. ST-86, Phase B, be assessed and apportioned against all of the real estate in said District in the portions contained in the aforesaid Notice, except as indicated; and

WHEREAS, from the statement made and filed with the City Clerk by the City Engineer, it appears that the assessable cost of the said improvements is \$38,769.09.

WHEREAS, from said statement it also appears the City Engineer has apportioned a share of the assessable cost to each lot or tract of land in said District in the following portions and amounts, severally, to wit:

LEGAL DESCRIPTION ASSESSMENT

Lots 7 to 10 Inc Blk C East Main Street Add \$8167.75

Lot 1 Blk 6 East Main Street Add \$8166.44

All that Pt of Lot 7 Sec 24 1S 1W lyg Adj to & N of Moore Sub & S of S Bank of Colo River & also beg at NW Cor of Lot 5 Moore Sub 1st Add Sd Sec 24 S 89 deg. 05 min. E 85.73 ft S 39 deg. 13 min. 11 sec. W 82.77 ft alg Arc of Curve to Left 36 ft Rad 50 ft long chord bears N 71 deg. 33 min. 40 sec. W 35.23 ft N 54.26 ft to Beg Exc Beg S 89 deg. 05 min. E 85.73 ft NW Cor Sd Lot 5 N to S Bank Colo River Ely alg Sd S Bank to a Pt N of NE Cor of Sd Lot 5 S to NE Cor Sd Lot 5 N 89 deg. 05 min. W 116.03 ft to Beg \$1484.47

Beg S 89 deg. 05 min. E 85.73 ft fr NW Cor Lot 5 Moore Sub 1st Add Sec 24 1S 1W N to S Bank of Colo River Ely alg S Bank to Pt N of NE Cor Sd Lot 5 S to Sd NE Cor S 91 ft to SE Cor Sd Lot 5 W 151.01 ft alg Curve to left 34.24 ft RAD 50 ft chord bears N 31 deg. 08 min. 41 sec. W 33.57 ft N 39 deg. 13 min. 11 sec. E 82.77 ft to Beg \$1411.89

Lot 3 Blk 1 Moore Sub Sec 24 1S 1W \$3711.16

Lot 7 Blk 1 Moore Sub Sec 24 1S 1W \$5772.91

Lot 4 Moore Sub 1st Add Sec 24 1S 1W Exc Rd ROW as Desc in B-1595 P-688 and 689 Mesa County Records \$4890.89

Lot 6 Moore Sub 1st Add Sec 24 1S 1W \$4406.79

Beg NW Cor SW4NW4 Sec 25 1S 1W E 238 ft S 135 ft W 238 ft N to Beg Exc W 30 ft for Rd B-769 P-581 & Exc N 20 ft for Rd B-1591 P-666 Mesa County Records \$940.91

Beg E 238 ft & S 0 deg. 01 min. 30 sec. E 20 ft & E 136 ft & S 0 deg. 01 min. 30 sec. E 5 ft & E 154 ft fr NW Cor SW4NW4 Sec 25 1S 1W E 54.58 ft S 0 deg. 01 min. 30 sec. 75 ft E 78 ft S 0 deg. 01 min. 30 sec. E 230 ft W 132.58 ft N 0 deg. 01 min. 30 sec. W 305 ft to beg \$246.90

Beg NE Cor NW4SW4NW4 Sec 25 1S 1W S 330 ft W 132 ft N 330 ft E to Beg Exc That Pt Beg E 238 ft & S 0 deg. 01 min. 30 sec. E 20 ft & E 136 ft & S 0 deg. 01 min. 30 sec. E 5 ft & E 154 ft fr NW Cor SW4NW4 Sd Sec 25 E 54.58 ft S 0 deg. 01 min. 30 sec. 75 ft E 78 ft S 0 deg. 01 min. 30 sec. E 230 ft W 132.58 ft N 0 deg. 01 min. 30 sec. W 305 ft to Beg \$352.84

Beg E 238 ft & S 0 deg. 01 min. 30 sec. E 20 ft & E 136 ft & S 0 deg. 01 min. 30 sec. E 5 ft fr NW Cor SW4NW4 Sec 25 1S 1W E 154 ft S 0 deg. 01 min. 30 sec. E 305 ft N 89 deg. 58 min. 39 sec. W 290 ft N 0 deg. 01 min. 30 sec. W 199.89 ft E 136 ft N 0 deg. 01 min. 30 sec. W 105 ft to Beg \$696.63

Beg 238 ft E of NW Cor SW4NW4 Sec 25 1S 1W E 290 ft S 330 ft W 290 ft N to Beg Exc That Pt Beg E 238 ft & S 0 deg. 01 min. 30 sec. E 5 ft fr NW Cor SW4NW4 Sec 25 1S 1W E 154 ft S 0 deg. 01 min. 30 sec. E 305 ft N 89 deg. 58 min. 39 sec. W 290 ft N 0 deg. 01 min. 30 sec. W 199.89 ft* N 0 deg. 01 min. 30 sec. W 105 ft to Beg \$615.21

Lot 1 Blk 1 Cyphers Sub Sec 25 1S 1W \$384.50

Lot 8 Blk 1 Cyphers Sub Sec 25 1S 1W Exc ROW on SE Cor Sd Lot 8 as Desc B-1236 P-350 Mesa County Records \$384.50

Lot 1 Blk 2 Cyphers Sub Sec 25 1S 1W Exc ROW on SW Cor Sd Lot 1 as Desc B-1236 P-350 Mesa County Records \$384.50

Lot 8 Blk 2 Cyphers Sub Sec 25 1S 1W Exc Rd ROW on SE Cor Sd Lot 8 as Desc B-1363 P-873 Mesa County Records \$384.50

Lot 2 Blk 3 Cyphers Sub Sec 25 1S 1W \$452.37

Lot 1 Replat of Lot 1 Blk 3 Cyphers Sub Sec 25 1S 1W \$357.59

Lot 6 Replat of Lot 1 Blk 3 Cyphers Sub Sec 25 1S 1W \$357.37

Lot 1 Blk 3 Artesia Heights Replat Sec 25 1S 1W \$65.91

Lot 2 Blk 3 Artesia Heights Replat Sec 25 1S 1W \$239.75

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

Section 1. That the assessable cost and apportionment of same, as hereinbefore set forth, is hereby assessed against all the real estate in said District, and to and upon each lot or tract of land within said District, and against such persons in the portions and amounts which are severally hereinbefore set forth and described.

Section 2. That said assessments, together with all interests and penalties for default in payment thereof, and all cost of collecting same, shall from the time of final publication of this Ordinance, constitute a perpetual lien against each lot of land herein described, on a parity with the tax lien for general, State, County, City and school taxes, and no sale of such property to enforce any general, State, County, City or school tax or other lien shall extinguish the perpetual lien of such assessment.

Section 3. That said assessment shall be due and payable within thirty days after the final publication of this Ordinance without demand; provided that all such assessments may at the election of the owner, be paid in installments with interest as hereinafter provided. Failure to pay the whole assessment within the said period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively considered and held as consenting to said improvements, and such election shall be conclusively considered and held as a waiver of any and all rights to question the power and jurisdiction of the City to construct the improvements, the quality of the work and the regularity or sufficiency of the proceedings, or the validity

of correctness of the assessment.

Section 4. That in case of such election to pay in installments, the assessments shall be payable in ten equal annual installments of the principal, except for B 3/4 Road, which shall be payable in four (4) annual installments, with interest upon unpaid installments payable annually in accordance with the coupons on the bond issued to fund the District. The first of said installments of principal shall be due and payable within thirty days after the final publication of this Ordinance and the remainder of said installments shall be done on the first day of January of each year thereafter until all of said installments are paid in full.

Section 5. That the failure to pay any installments, whether of principal or interest, as herein provided, when due, shall cause the whole unpaid principal to become due and payable immediately and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of ten percent per annum until the day of sale, as by Law provided; but at any time prior to the date of sale, the owner may pay the amount of such delinquent installment or installments, with interest at ten percent per annum as aforesaid, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any piece of real estate not in default as to any installments may at any time pay the whole of the unpaid principal with interest accrued.

Section 6. That payment may be made to the City Finance Director at anytime within thirty days after the final publication of this Ordinance, and an allowance of the six percent added for cost of collection and other incidentals shall be made on all payments made during said period of thirty days.

Section 7. That monies remaining in the hands of the City Finance Director as the result of the operation and payments under Improvement District No. ST-86, Phase B, after the retirement of all bonds and proper payment of monies owing by the District shall be retained by the Finance Director and shall be used thereafter for the purpose of further funding of past or subsequent improvement districts which may be or may become in default.

Section 8. That all provisions of Ordinance No. 178 of the City of Grand Junction, as amended, being Chapter 18 of the Code of Ordinances of the City of Grand Junction, shall govern and be taken to be a part of this Ordinance with respect to the creation of said Improvement District No. ST-86, Phase B, the construction of the improvements therein, the apportionment and assessment of the cost thereof and the collection of such assessments.

Section 9. That this Ordinance, after its introduction and first reading shall be published once in full in The Daily Sentinel, the official newspaper of the City, at least ten days before its final

