

URBAN RENEWAL RESOLUTION 04-004

A RESOLUTION ADOPTING PUBLIC IMPROVEMENT ASSESSMENT PROCEDURES FOR THE URBAN RENEWAL AGENCY.

WHEREAS, The Canby Urban Renewal District desires to create a Local Improvement District to recover certain costs relating to the construction of Hazel Dell Way; and

WHEREAS, ORS 223.389 requires local governments to adopt by ordinance or resolution procedures for local assessments prior to adopting such assessments; and

WHEREAS, The City of Canby has previously adopted appropriate procedures meeting all requirements of state law; and

WHEREAS, The Urban Renewal Agency wishes to utilize those same procedures for local assessments to be created by the Agency;

NOW, THEREFORE, THE CANBY URBAN RENEWAL AGENCY RESOLVES AS FOLLOWS:

- (1) The Urban Renewal Agency hereby adopts the procedures contained in Chapter 4.04 of the Canby Municipal Code, "Public Improvement Assessment Procedures." All aspects of these procedures shall be followed by the Agency, staff, and private property owners when creating a Local Improvement District.

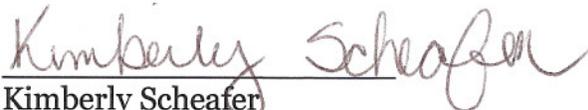
This resolution will take effect upon adoption, on August 4, 2004.

ADOPTED this 4th day of August, 2004 by the Canby Urban Renewal Agency.



Randy Carson, Chair

ATTEST:



Kimberly Scheafer
City Recorder, Pro-Tem

Title 4

LOCAL IMPROVEMENTS

Chapters:

- 4.04 Public Improvement Assessment Procedures**
- 4.08 Special Assessments for Senior Citizens**
- 4.12 Advance Financing of Public Improvements**
- 4.20 System Development Charges**

Chapter 4.04

PUBLIC IMPROVEMENT ASSESSMENT PROCEDURES

Sections:

- 4.04.010 Definitions.
- 4.04.020 Declaration of intention report from city engineer recommendations.
- 4.04.030 Council consideration of engineer's report.
- 4.04.040 Notice of hearing on engineer's report.
- 4.04.050 Hearing procedure.
- 4.04.060 Manner of doing work contracts, bids and bonds.
- 4.04.070 Special hearing when low bid exceeds estimate.
- 4.04.080 Assessment ordinance.
- 4.04.090 Method of assessment and alternative methods of financing.
- 4.04.100 Appeal.
- 4.04.110 Lien recording interest foreclosure.
- 4.04.120 Notice of assessment bonding.
- 4.04.130 Errors in assessment calculations.
- 4.04.140 Deficit assessment.
- 4.04.150 Rebate.
- 4.04.160 Abandonment of proceedings.
- 4.04.170 Curative provisions.
- 4.04.180 Reassessment.

4.04.010 Definitions.

A. City engineer refers to the duly appointed and then acting city engineer of the city of Canby and/or such other engineer or firm of engineer's appointed by the city council in connection with any proposed improvement.

B. Owner, in relation to the ownership of real property, means the record holder of the legal title to the land in question; except that if there is a purchaser of the land whose interest therein is evidenced by a recorded contract for the sale thereof or by written verified statement of the record holder of the legal title, and which verified statement has been duly filed with the recorder of the city, then such purchaser shall be deemed the owner.

4.04.020 Declaration of intention report from city engineer recommendations.

Whenever the council shall decide to make street, sewer, sidewalk or other public improvements to be paid for in whole or in part by special assessments, the council shall by motion declare its intention to initiate such improvement, and by such motion direct the city engineer to make a survey and a written report of such proposed project and file the same with the city recorder within the time set forth by the council in the motion. Such report shall contain:

- A. A plat or map showing the general nature, location and extent of the improvements proposed and the lands to be assessed for the purpose of paying all or any part of the costs thereof;
- B. Plans, specifications and estimates of the work to be done;
- C. An estimate of the probable cost of the improvement, including legal, administrative and

engineering costs attributable thereto;

D. A recommendation as to the method of assessment to be used, in order that a fair apportionment of the whole or any portion of the costs of the improvement can be assessed to the property to be specially benefited thereby and which recommendation shall be in accord with the provisions of section 4.04.090;

E. An estimate of the unit cost of the improvements to the specially benefited properties derived from applying the recommended assessment method to the estimated cost of the improvement;

F. A description of the location and assessed value of each lot, tract or parcel of land or portion thereof to be specially benefited by the improvement with the names of the record owners thereof and when readily available the names of other owners thereof as defined in this chapter;

G. A statement showing outstanding assessments against property to be assessed;

H. Any other information required by the council.

4.04.030 Council consideration of engineer's report.

After the city engineer's report has been filed with the city recorder the council shall consider the report. The council may approve the report as submitted or may amend and approve the report as amended. The council may direct the city engineer to furnish the council with a further report of information or on the basis of the engineer's report the council may, by motion, record its intention to abandon the improvement.

4.04.040 Notice of hearing on engineer's report.

After the council has approved the engineer's report as submitted or as amended by the council:

A. It shall direct the city recorder to cause to be published forthwith once each week for two successive weeks, in the Canby Herald, or in any other newspaper of general circulation printed and published in Canby, Oregon, a notice stating:

1. That the report or amended report of the city engineer as approved by the council is on file in the city recorder's office, subject to examination giving the date no earlier than ten days immediately following the first publication of notice when any objections thereto will be considered by the council at a public hearing;

2. That written remonstrance may be filed against the proposed improvement at the office of the city recorder not later than the scheduled time for the council hearing of objections to the proposed improvement;

3. That the improvement will be abandoned for at least six months if there is presented a valid remonstrance of the owners of two-thirds of the land to be specially assessed as a result of such proposed public improvement;

4. A description of the boundaries of the district to be specially benefited by the improvement, giving the names of the record owners thereof and when readily available then the names of other owners thereof as defined in this chapter;

5. The estimated total cost of the improvement which is to be paid for by special assessment of benefited property;

6. The city engineer's estimated unit cost of the improvement to the specially benefited property clearly indicating that this is an estimate and not an assessment.

B. It shall also direct the city recorder to send forthwith, by first-class mail, the same notice, addressed to each record owner at Canby, Oregon, and when readily known to each owner as defined in this chapter, of the property to be specially benefited by the proposed improvement.

C. It may, in its discretion, direct the city recorder upon the basis of the council-approved engineer's report, to advertise for bids and designate the time at which such bids shall be opened, which time may be the time of the aforesaid hearing; provided, however, that if bids for the construction of such public improvement have been previously received by the council and the contract let as a result thereof, no work shall be commenced on such improvement and the payment for which is to be assessed against the properties especially benefited thereby until after the aforesaid public hearing is held and any objections to the council-approved engineer's report are heard by the council.

4.04.050 Hearing procedure.

At the aforesaid hearing the council shall hear oral objections to the proposed improvement and shall consider any written remonstrance thereto. If either oral or written remonstrance of the owners of two-thirds of the land to be specially assessed as a result of such proposed public improvement are received by the council at such public hearing then such remonstrance shall have the effect of defeating the proposed improvement in which event no further action to effect the improvement shall be taken for six months. For the purposes of receiving and considering remonstrance, the owners of the property shall be those persons defined as owner in this chapter. If the council, after hearing the oral and/or written remonstrance finds that there is not a sufficient remonstrance, it may proceed with the improvement.

4.04.060 Manner of doing work contracts, bids and bonds.

The council shall provide by resolution, the time and manner of doing the work of such improvement and may provide for the city to do the work or may award the work on contract. In the event that the work is done under contract, bids shall be received after advertisement for such time as the council may determine, on all such work the estimated cost of which is more than \$500. The contract shall be let to the lowest responsible bidder, provided that the council shall have the right to reject any and all bids when they are deemed unreasonable or unsatisfactory. The council shall provide for taking security by bond 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. If the city has, prior to the public hearing as provided in this chapter and for the purpose of determining the cost of such proposed public improvement, previously advertised for and received bids for such construction and as a result thereof has determined the lowest, best qualified and most responsible bidder, then the council may at its discretion, and after such public hearing and provided there are not sufficient remonstrance to defeat such proposed improvement, award a contract to such low bidder, whose bid for the construction of such improvement was previously received, or otherwise direct commencement of construction under a contract which may have been previously awarded.

4.04.070 Special hearing when low bid exceeds estimate.

If bids for the construction of the proposed improvement are not advertised for or received prior to the filing of the engineer's report and estimate as provided in this chapter and the council finds upon opening bids for the work of such improvement that the lowest responsible bid substantially exceeds the engineer's estimate, it may in its discretion, hold a special hearing for the purpose of receiving objections to proceeding with the improvement on the basis of such bid and may direct the city recorder to publish reasonable notice thereof in a newspaper of general

circulation, printed and published in Canby.

4.04.080 Assessment ordinance.

When the council after the aforesaid hearing or hearings shall determine to proceed with the improvement it shall pass an ordinance assessing the various lots, parcels, tracts of properties specially benefited thereby with their apportioned share of the cost of the improvement; provided, however that the passage of such an assessment ordinance may be delayed until the contract for the work is let or the improvement is completed and the total cost thereof determined.

4.04.090 Method of assessment and alternative methods of financing.

A. The council, in adopting a method of assessment of the costs of the improvement may:

1. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived;
2. Use any method of apportioning the sum to be assessed that is just and reasonable between the properties to be specially benefited;
3. Authorize payment by the city of all, or any part of the cost of any such improvement, when in the opinion of the council on account of topographical or physical conditions, unusual or excessive public travel or other character of the work involved or when the council otherwise believes the situation warrants it; provided, the method selected creates a reasonable relation between the benefits derived by the properties specially assessed and the benefits derived by the city as a whole.

B. Nothing contained in this section shall preclude the council from using other available means of financing improvements, including federal or state grants-in-aid, sewer service or other types of service charges, revenue bonds, general obligation bonds or other legal means of finance. In the event any of such other means of finance are used, the council may, in its discretion, levy special assessments under this section according to benefits to cover any part of the costs of the improvement not covered by such means.

4.04.100 Appeal.

Any person feeling aggrieved by assessments made as provided in this chapter may, within 20 days from the passage of the ordinance levying the assessment, appeal therefrom to the circuit court. Such appeal and the requirements and formalities thereof shall be heard, governed and determined and the judgment thereon rendered and enforced so far as is practical in the manner provided for appeals for reassessments contained in Oregon Revised Statutes 34.010 to 34.100 as now appears or hereafter amended. The result of such an appeal shall be a final and conclusive determination of the matter of such assessment except with respect to the city's right of reassessment as provided in this chapter.

4.04.110 Lien recording interest foreclosure.

After the ordinance levying assessments has been passed, the city recorder shall enter in the docket of city liens a statement of the respective amounts assessed upon each particular lot, tract or parcel of land, with the names of record owners thereof and so far as readily known the names of the owners thereof as defined in this chapter. Upon such entry in the lien docket, the amount so entered shall be a lien and charge upon the respective lots, tracts and parcels of land against which the same are placed. Such liens shall be first and prior to all other liens or encumbrances thereon and insofar as the laws of the state allow. Interest shall be charged at the rate of ten percent per year

from the date on which the assessment or corrected assessment was entered in the lien docket, and the same shall be done in the manner provided for the foreclosure or enforcement of liens by the general laws of the state.

4.04.120 Notice of assessment bonding.

Within ten days after the ordinance levying assessments has been passed, the city recorder shall cause to be published once in a newspaper of general circulation, published and printed in Canby, a notice of assessment, which notice shall contain the names of the owners as defined in this chapter, of each lot, tract, or parcel of land assessed and together with the amount of their respective assessments. This notice shall also state the time within which such assessments must be paid or bonded and that assessments which are not paid or bonded within the time stated in the notice shall bear interest at the current rate as determined by the council per year and that the property so assessed is subject to foreclosure if such assessments are not paid or bonded within the time stated in the notice. Such record owner or other owner, as defined in this chapter, may make application to bond such assessment pursuant to the provisions of sections 223.205 through 223.300, of Oregon Revised Statutes which is known as the "Bancroft Bonding Act" or any amendments thereof.

4.04.130 Errors in assessment calculations.

Calculation of assessments shall be called to the attention of the city recorder prior to any payment on such account. The city recorder shall determine whether there is an error in fact. If he shall find that there is an error in fact, he shall recommend to the council an amendment to the assessment ordinance to correct the error. Upon the enactment of such an amendment by the council, the city recorder shall make the necessary correction in the docket of city liens and send by first-class mail to the last known address of the owner a corrected notice of the assessment.

4.04.140 Deficit assessment.

If assessment is made before the total costs of improvement are known and it is found that the amount assessed is insufficient to defray the expense of the improvement, the council may, by motion, declare such deficit and prepare a proposed deficit assessment. The council shall set a time for hearing of objections to such deficit assessment and shall direct the city recorder to publish objections to such deficit assessment and shall direct the city recorder to publish reasonable notice thereof in a newspaper of general circulation, printed and published in Canby, Oregon. The council, upon such hearing, shall make a just and equitable deficit assessment by ordinance. Such deficit assessment shall be consolidated with the assessment in the lien docket in accordance with the provisions of section 4.04.110. Thereafter, the provisions of sections 4.04.120 and 4.04.130 shall be applicable with regard to such deficit assessment.

4.04.150 Rebate.

If upon completion of the project it is found that any sum theretofore assessed upon any property is more than sufficient to pay the cost for the public improvement completed, the council shall ascertain and declare the same by ordinance, and when so declared, it must be entered in the docket of city liens as a credit upon the appropriate assessed owner's account. If any such assessment has been paid, the person who paid the same or his legal representative shall be entitled to a rebate and to the amount of the credit as ascertained and declared.

4.04.160 Abandonment of proceedings.

The council shall have full power and authority to abandon and rescind proceedings for improvements under this chapter at any time prior to the final consummation of such proceedings and if liens have been assessed upon any property under this chapter or pursuant to the provisions hereof, they shall be canceled and any payments made thereon shall be refunded to the payor, his assigns or legal representatives.

4.04.170 Curative provisions.

No improvement assessment shall be invalid by reason of a failure to give, in any report pertaining to the proposed public improvement or the proposed assessment or by reason of a failure to insert in the assessment ordinance or ordinance or in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or part thereof, or the name of any person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinabove specified, unless it appears that the assessment as made insofar as it affects the person complaining, is unfair and unjust, and in such event the council shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

4.04.180 Reassessment.

Whenever an assessment, deficit assessment or reassessment for any improvement, which has been or may be hereafter made by the city, has been or shall be hereafter set aside, annulled, declared or rendered void or its enforcement refuted by any court of this state or any federal court having jurisdiction thereof, whether directly or by virtue of any decision of such court, or when the council shall be in doubt as to the validity of such assessment, deficit assessment or reassessment or any part thereof, the council may make a new assessment or reassessment. Such reassessment shall be made in the manner provided by sections 223.405 through 223.490 of Oregon Revised Statutes or as the same may be amended.