

ORDINANCE 1682

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON; APPROVING AND ADOPTING THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS MADE BY THE CITY HEARING EXAMINER REGARDING THE REASSESSMENT AND THE REASSESSMENT ROLL FOR CERTAIN PROPERTIES WITHIN UTILITY LOCAL IMPROVEMENT DISTRICT NO. 6; CONFIRMING THE REASSESSMENT ROLL FOR CERTAIN PROPERTIES WITHIN UTILITY LOCAL IMPROVEMENT DISTRICT NO. 6; AND PROVIDING THAT PAYMENT OF THE COSTS OF THE IMPROVEMENTS BE MADE BY SPECIAL ASSESSMENTS UPON THESE CERTAIN PROPERTIES IN THE DISTRICT

WHEREAS, a petition was filed with the City Council, signed by the owners of the property aggregating a majority of the area within a proposed utility local improvement district (“ULID”), setting forth the nature and territorial extent of the proposed improvement, the mode of payment and that a sufficient portion of the area within the proposed district was owned by the petitioners as shown by the records in the office of the Auditor of King County, petitioning for the extension of the City’s sewer system and service together with related improvements, more specifically described hereinafter (“Improvement”); and

WHEREAS, the City Engineer caused a preliminary estimate to be made of the cost and expense of a vacuum sewer system and certified that estimate to the City Council, together with the other information in his possession regarding the Improvement, and a statement of what portion of the cost and expense of the Improvement should be borne by the owners of the property within the proposed district; and

WHEREAS, the City Council conducted a public hearing on the proposed district formation and determined it to be in the best interests of the City and of the owners of the property within the proposed district that the Improvement petitioned for, as hereinafter described, be carried out and that the District be created in connection therewith; and

WHEREAS, after a subsequent petition was received to include additional property owners in the district, the City conducted a further study and determined that the vacuum sewer system would not be able to handle the expected flows from the properties to be

served, and that it was accordingly necessary to change the design from a vacuum sewer system to a gravity sewer system; and

WHEREAS, a hearing on the proposed assessment roll was subsequently conducted by a Hearing Examiner on behalf of the City Council and, following the hearing, the Examiner recommended approval of the district assessments as presented; and

WHEREAS, the City Council subsequently adopted the Hearing Examiner’s recommendation and approved the final assessment roll for the District as presented; and

WHEREAS, the District was implemented for a substantial majority of properties within the District, but seven property owners filed appeals of their respective assessments; and

WHEREAS, on appeal, the Court of Appeals annulled “the assessments only of the appealing property owners, allowing the City to pursue a reassessment;” and

WHEREAS, the seven appellants further petitioned the State Supreme Court to review the decision of the Court of Appeals, but the State Supreme Court declined to accept review and remanded the matter to the Superior Court for proceedings in accordance with the Court of Appeals’ prior decision; and

WHEREAS, the City Council adopted Ordinance No. 1537 on October 7, 2014, which ordered the reassessment of the properties belonging to the seven appellants; and

WHEREAS, the King County Superior Court, by order dated November 13, 2015, in Cause No. 15-2-02756-5, confirmed the City’s right to conduct the reassessment on the parcels that had been subject to the earlier appeal; and

WHEREAS, City Council adopted Resolution No. 1809 on February 6, 2018, delegating to the City Hearing Examiner the authority to conduct a public hearing and receive objections to the City’s proposed reassessment roll; and

WHEREAS, a hearing on the reassessment was held on March 29, 2018, at which three property owners and/or their representatives filed written objections to the reassessment roll; and

WHEREAS, the Hearing Examiner closed the evidentiary record on June 20, 2018; and

WHEREAS, the Hearing Examiner issued his Findings of Fact, Conclusions of Law and Recommendation on July 20, 2018 (“Recommendation”); and

WHEREAS, on July 24, 2018, the City Clerk mailed notice of the Hearing Examiner’s Recommendation to the three property owners who filed objections at the reassessment hearing; and

WHEREAS, no appeals of the Hearing Examiner's Recommendation were filed with the City Clerk within fourteen days of mailing notice and the Recommendation, as provided pursuant to the North Bend Municipal Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendations Adopted. The City Council hereby accepts and adopts the Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation as set forth in Exhibit A attached hereto and made a part hereof.

Section 2. Reassessment Roll Confirmed and Adopted. As recommended by the Hearing Examiner in Exhibit A, the parcels of land and other property shown upon the Final Reassessment Roll (Exhibit B to this ordinance, attached hereto and made a part hereof by reference), are found and declared by the City Council, sitting and acting as a board of equalization, to be specially benefitted by the improvements constructed pursuant to ULID No. 6 in at least the amount charged against them. The Final Reassessment Roll is approved and confirmed as set forth in Exhibit B attached hereto.

Section 3. Levy of Reassessment. Each of the lots, tracts, parcels of land, and other property shown on Exhibit B is hereby determined and declared to be specially benefitted by the Improvement in at least the amount charged against the same. There is hereby levied and assessed against each lot, tract, parcel of land, and other property appearing on Exhibit B the amount shown thereon.

Section 4. Placement of Reassessment Roll With Finance Director For Collection. The Final Reassessment Roll as approved and confirmed shall be filed with the City Finance Director (as City Treasurer) of the City of North Bend, Washington, for collection. The Finance Director is hereby authorized and directed to publish notice as required by law stating that the roll is in her hands for collection and that payment of any assessment thereon of any portion thereof may be paid at any time within thirty (30) days from the date of the first publication of the notice that the reassessment roll has been placed in her hands for collection without penalty, interest, or costs, and thereafter, the sum remaining unpaid, if any, may be paid in eighteen (18) equal annual installments with interest on the whole unpaid sum at a rate of 4.375%. Any installment not paid prior to the annual anniversary of said thirty (30) day period shall be deemed delinquent. All delinquent installments shall be subject to a charge for interest at the above established rate per annum and an additional charge of twelve percent (12%) penalty levied upon both principal and interest due upon that installment, and all delinquent installments plus penalty also shall be charged interest at the rate determined above. The collection of such delinquent installments will be enforced in the manner provided by law.

Section 5. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Section 6. Severability. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF MARCH, 2019.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Kenneth G. Hearing, Mayor

Eileen M. Keiffer, City Attorney

ATTEST/AUTHENTICATED:

Published: March 15, 2019
Effective: March 20, 2019

Susie Oppedal, City Clerk