

PROPOSED NEW CHARTER FOR THE CITY OF HEPPNER

(Continued from Page Two)

under the provisions of this section shall not at any one time exceed in the aggregate to the amount of Fifteen Thousand (\$15,000.00) Dollars, and the Council may provide by ordinance for the issuance thereof, without submitting the same to a vote of the electors of the City.

CITY EMPOWERED TO ISSUE GENERAL MUNICIPAL BONDS—LIMITATION THEREOF:

Section 110. The Common Council of the City of Heppner, is hereby authorized and empowered to borrow money on the faith of the City for any specific municipal purpose or purposes in excess of the limitations contained in sub-division (72) of Section 49, and Section 107 of this Charter, and to that end to provide for and issue bonds of the City for such purpose or purposes and designate the manner and time of payment thereof and the interest thereon, provided, that the amount of said bonds shall not at any one time exceed ten per cent of the assessed valuation of the assessable property within the City, and that the rate of interest on such bonds shall not exceed six per cent per annum; providing further, however, that in computing the total indebtedness of the City at any time, the indebtedness created by the issuance of warrants, and the issuance of local improvement bonds for local improvements, and the cost of which has been made a lien by this Charter, and the proceeding thereunder, upon the property benefited by such improvement, shall not be included in estimating the total indebtedness of the City at any one time. Any and all propositions to issue bonds for any specific municipal purpose shall first be submitted to a vote of the qualified electors to vote thereat at a special election for that purpose; and such proposition shall receive a majority of all votes cast at such election to authorize the issuance of such bonds, and no such bonds shall be issued except as herein provided.

BONDS—HOW DISPOSED OF:

Section 111. Before disposing of any of the bonds provided for in this Charter, the Council shall require the Recorder to advertise for at least twenty days in a newspaper published in Morrow County, to be designated by the Council, for sealed proposals to purchase said bonds or any part thereof, which said advertisement shall state the amount of the bonds to be sold, the time the same will become due, the date at which proposals shall be opened and considered, and that the bonds are issued and disposed under this Charter.

At the time specified in the notice provided for in the preceding subdivision of this Section, the Council shall proceed to open all proposals received for the purchase of the bonds offered and to be disposed of, and shall sell the said bonds to the person or persons making the best offer therefor; provided, the Council shall have authority to reject any and all bids and proposals.

BONDS—DENOMINATIONS AND HOW SIGNED:

Section 112. Bonds issued under the provisions of this Charter, shall be signed by the Mayor, and the Recorder, with their title of office, and shall be drawn in amounts not exceeding One Thousand (\$1,000.00) Dollars, and made payable within twenty years, interest payable semi-annually, and shall not be sold for less than their par value, nor otherwise than for cash paid down at the time of sale, nor draw a greater rate of interest than in this Charter provided.

CHAPTER VIII.

ESTABLISHING AND CHANGING OF STREETS AND PLATS OF ADDITIONS.

Article I.

POWER OF COUNCIL OVER STREETS:

Section 113. The Council of the City of Heppner, is hereby granted power and authority within the limits of said City of Heppner, whenever it may deem it expedient, to open, lay out, establish, widen, alter, extend, vacate, close or improve streets, and to appropriate and condemn private property therefor.

ENGINEER TO MAKE SURVEY OF STREETS TO BE LAID OUT OR ESTABLISHED:

Section 114. Whenever the Council shall deem it expedient to open, lay out, or establish a new street, or to change an existing street, by widening, altering or extending the same, it shall by Resolution direct the City Engineer, or other competent Engineer to make a survey of such street or change, and to make a plat of the same and a written report, containing a full and complete description of such street or change, and of the boundaries thereof, and of the portions of each lot and tracts of land to be appropriated therefor. Such Engineer shall make such survey, report and plat, and file the same with the Recorder of the City of Heppner within twenty (20) days from the date the same is ordered by the Council, unless said Council grant him further time. Should the Council deem said survey, plat and report satisfactory, it shall adopt the same by ordinance embodying such report.

VIEWERS TO BE APPOINTED—NOTICE THEREOF:

Section 115. Thereafter within sixty days from the adoption of such report, the Council shall appoint three disinterested freeholders of the City of Heppner, possessing the qualifications of jurors of the Circuit Court of Morrow County, to view such proposed street or change, and make an assessment of damages and benefits as provided in the next following Section of this Charter, and shall assign a day and place for them to meet, and shall cause a notice to be given by publication for ten successive days in a newspaper published in Morrow County, Oregon, to be designated by the Council, of the appointment of such viewers, with their names and the time and place appointed for them to meet, and specifying with convenient certainty the boundaries and termini of the proposed street to change, and the boundaries and description of the private property to be appropriated for such purpose; and the Recorder shall send by mail, postpaid, a copy of such notice to each of the property owners whose property is proposed to be appropriated, or to the agent of such owner, when the postoffice address of such owner or agent is known to him, and if such postoffice address is unknown, then such notice shall be directed to such owner or agent at Heppner, Oregon. The published notice herein provided shall be deemed conclusive notice to all owners of property whose shall be appropriated for such purpose.

PROCEEDING OF VIEWERS—THEIR OATH—COMPENSATION:

Section 116. The Recorder shall at least five days before the day set for such meeting cause said viewers to be notified of their appointment and of the time and place of such meeting, and said viewers shall meet at the time and place designated, and shall then be sworn to faithfully discharge the duties assigned to them. They shall then or on any subsequent day to which they may adjourn (which adjournment shall not exceed one week at a time), proceed to view the proposed street or change and determine and assess how much, if any, less valuable the land or other property, or any part thereof, through or over which the proposed street is to be opened, laid out, established or changed, will be rendered thereby; and shall also ascertain the respective interest of all persons claiming to be the owners of the land or other property aforesaid, or of the improvements thereon, or to have interest in such land or improvements, and the damages which each of said owners respectfully will sustain. But the right, title or interest of the owners of such improvement shall not be affected by such proceeding, and the appropriation of such lands of such owners, if such owners shall within sixty days after the appropriation of such lands shall within sixty days after the appropriation of such lands shall be completed or within such further time as the Council shall allow therefor, apply to remove such improvements from said lands; otherwise such improvements shall be and become the property of the City of Heppner. Said viewers shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of such proposed street or change to the respective owners, and other persons interested, in all lands or other property, which said viewers shall deem specifically benefited by such opening, laying out, establishing or changing. Said viewers shall thereafter at their earliest convenience report the assessment for damages and benefits as in this Section required, to the Council; but any failure to state the name of any owner, or a mistake in the name of any owner, or a statement of a name other than the true owner, in such report, assessment, or in the ordinance adopting such report, or in the Docket of the City Liens

where the name is entered, or in any notice required by this Charter, shall not render void nor in any way effect the lien of such assessment upon the property assessed. The viewers shall receive as compensation for their services the sum of Two Dollars each for each day actually engaged in said service, to be paid by the City and charged as costs and assessed as part of the benefits by said viewers. The Recorder of the City of Heppner shall act as clerk for said viewers and prepare all reports for them.

NOTICE OF VIEWERS—REPORT—COUNCIL MAY ADOPT OR REJECT REPORT:

Section 117. Upon the filing of said report of the viewers with the Recorder, he shall immediately cause a notice to be published for a period of five days in a newspaper published in Morrow County, Oregon, to be designated by the Council, of the filing of such report, giving the date when the same will be considered by the Council, describing with convenient certainty, the boundaries of the district assessed by the viewers in said report, and notifying all persons interested, to present in writing their objections to said report, if any they have, and said objections, if any there be, together with said report, shall be heard and determined by the Council. It shall be the duty of the Recorder, forthwith, to send by mail, postpaid, a notice of each assessment, stating the date when the same will be considered by the Council, and directing all persons interested to present in writing their objections to said report, if any they have, to the owner (if known) of each lot or part thereof or tract of land assessed, or to the agent of such owner, when the postoffice address of such owner or agent is known to him, and if such postoffice address be unknown to him, then such notice shall be directed to such owner or agent at Heppner, Oregon; if such report shall appear to the Council to be in all respects reasonable and just, it may be adopted by ordinance embodying such report, or if it shall appear to the Council that the damages or benefits assessed are unreasonable, unjust or insufficient in any respect, the Council may send the same back to the same viewers for further consideration, and the viewers may after and revise the same as they shall deem just, and again report the same to the Council, who may thereupon adopt or reject the same; or said Council may appoint new viewers with like powers, duties and obligations, as the first viewers, to make such assessment and awards, and to report the same to the Council, who shall have the same power over such report as over that of the original.

APPEAL FROM VIEWERS REPORT:

Section 118. The owner or owners of any lot or part thereof so to be appropriated as aforesaid, or of the improvement thereon, or any person having an interest therein, or any person against whom an assessment or benefit has been made, may appeal to the Circuit Court of the State of Oregon, for Morrow County, from such report and assessment of damages and benefits. Any number of persons may join in such appeal, and the only question to be determined by such appeal shall be the question of the excess of damages over benefits, or the excess of benefits over damages suffered and received by each person joining in such appeal.

APPEAL HOW TAKEN:

Section 119. An appeal shall be taken by serving notice of appeal within twenty (20) days from the adoption of the report of the viewers by the Council, upon the Mayor, Recorder or Attorney of the City, and filing an undertaking with one or more sureties, who shall possess the qualifications of bail upon arrest in a civil action, and shall justify in like manner, conditioned that the appellant will pay all costs and disbursements that may be awarded against him on appeal, not exceeding three hundred (\$300.00) Dollars, together with the proof of service of such notice in the office of the Clerk of the Circuit Court of said County of Morrow.

APPEAL—HOW CONDUCTED:

Section 120. The City shall be considered the plaintiff and such appeal shall be conducted and determined and the judgment thereon enforced as far as practicable, in the same manner as an action at law. The jury shall view the proposed street, the property to be appropriated and the property against which benefits are assessed, and the evidence of the damages and benefits may be introduced by the City and appellant, but the issue, testimony and verdict upon such appeal shall be confined to the parties appealing, and the jury shall not re-assess any damages or benefits appealed from. The jury, in making the re-assessment damages or benefits, shall in its apportionment of the same, be governed by the same laws as in this Charter provided for the action of viewers. The verdict of the jury shall be final and conclusive, determination of such assessment, unless the judgment rendered in such case shall be reviewed or modified on appeal. An appeal to the Supreme Court of the state may be taken from such judgment in the same manner as from other judgments of said Circuit Court, and with like effect. On an appeal from the report and assessment of damages and benefits, the fact that one called as a juror is a taxpayer of the City of Heppner shall not disqualify him from sitting as such juror.

JUDGMENT OF APPEAL:

Section 121. If an appellant fails to recover greater damages or to secure a more favorable assessment of benefits as the case may be, then he shall be assessed by the viewers, judgment shall be rendered against him and his sureties on an appeal for his portion of the costs of such appeal to be paid pro rata, according to the respective amounts of damages and benefits assessed.

COSTS ON APPEAL:

Section 122. The same fees and costs shall be taxed and paid upon such appeal as are allowed in other actions.

PROCEEDINGS PRIMA FACIE REGULAR:

Section 123. In all actions, suits and proceedings concerning the opening, laying out, establishing or changing of any street, under the provisions of this Charter, all proceedings had for that purpose, shall be presumed to have been regular and legally taken until the contrary is shown.

DOCKET OF CITY LIEN—COLLECTION OF ASSESSMENTS:

Section 124. The Council at the expiration of the time limited for appeal, if no appeal be taken, or immediately after judgment is rendered on appeal, if an appeal be taken, and if it shall deem it advisable to open, lay out, establish or change said street, in pursuance of said judgment, shall by resolution direct the Recorder to enter in the Docket of City Liens the respective sums of benefits over damages so assessed on each particular lot or parcel of land, and the names of the owners or other parties interested in the lands or other property benefited and assessed in like manner as assessments for street improvements are entered in said Lien Docket, and then so adopted said sum shall be a lien or charge upon the estate and interest of the respective owners and parties interested in such lands or other property, and also the said owners and other parties interested as aforesaid shall be respectively and severally liable to pay said assessments, and in case no appeal or other proceeding in court be taken as to any assessment of benefits or damages the said excess so assessed shall be paid to the Treasurer of the City of Heppner, within ten days from the time of entering the same on the Docket of City Liens, or the same shall be deemed delinquent, and thereupon shall be collected in like manner as provided for the collections of other delinquent assessments, excepting that if all the property upon which assessments are due and delinquent is not sold at any sale, proceedings may be begun for a subsequent sale immediately after the return of the sale are made. All moneys arising from such assessments of benefits shall be kept in a separate fund and be applicable to the satisfaction of the excess of damages over benefits assessed to owners and other persons interested in the property taken or damaged for the purpose of laying out, establishing or changing the streets in the manner in which such benefits are assessed and for the payment of expenses incurred by the City for surveying, advertising and viewers in said proceeding.

WARRANTS FOR DAMAGES—ASSESSMENTS VOID, UNLESS COLLECTED WITHIN NINE MONTHS:

Section 125. Whenever the full amount of the assessment of benefits as entered in the City Docket of Liens is paid into the City Treasury, warrants shall be drawn on Treasurer payable out of the fund to be provided for that purpose, for the amount of excess of damages or excess of damages and costs assessed and in favor of the owner or owners, or other persons interested, and when said warrants are drawn and ready for delivery to the parties entitled to the same, such property shall be deemed appropriated for the purpose of such streets; and not otherwise; provided, that no process of any court shall issue to compel any appropriation for damages or the issuing of warrants for the same. And unless such assessments are collected and said warrants so drawn and ready for delivery within nine months after the termination of the time limited for appeal, if no appeal taken, or within nine months from the date of the rendition of final judgment on appeal, if an appeal be taken, all acts and proceedings under such survey and viewers shall be null and void, the Recorder of the City of Heppner shall not deliver any warrants for damages on account of the opening or widening of the street until the person for whom such warrant is drawn shall have exhibited to him for satisfactory proof that there are no prior liens upon the land appropriated which may be affected by such appropriation.

COUNCIL TO DECLARE STREET OPEN WHEN WARRANTS ARE DRAWN—PLAT TO BE FILED:

Section 126. When said warrants are drawn and ready for delivery to the parties entitled to the same, the property required for public use as shown in the report of the Engineer shall be deemed appropriated for the purpose of the street, and the Council shall by resolution declare such street to be opened, laid out, established or changed, and within thirty days after the adoption of said resolution, the Engineer shall file for record with the Clerk of Morrow County, a copy of said resolution and an accurate plat of said street, and of the property so appropriated for public use.

POWERS GRANTED TO COUNCIL—HOW EXERCISED—SURVEY OF STREET ADOPTED BY ORDINANCE:

Section 127. The power and authority granted to the Council by this Charter is granted to the Municipal corporation of the City of Heppner, to be exercised according to the provisions of this Charter creating such corporation unless otherwise specially provided therein. The power to approve and adopt the survey of any street must be exercised by ordinance, and not otherwise.

COUNCIL MAY PROVIDE REGULATIONS:

Section 128. The Council may provide by ordinance any regulations as to manner of opening, laying out, establishing or changing streets not in conflict with this Charter, and may provide by ordinance anything convenient and necessary for the effectual carrying out the spirit and intention of this Charter.

Article II.

Vacation of Streets—Plats

NOTICE AND PETITION FOR VACATING STREETS AND PLATS OF ADDITIONS:

Section 129. Whenever any person or corporation interested therein shall desire the vacation of any street or any part thereof, within the City of Heppner, the person or corporation so desiring, shall give notice thereof by advertising for two successive weeks in a newspaper printed and published in Morrow County, Oregon, that at a regular meeting of the Council, to be held at the time contained in such notice of publication, a petition will be presented to the Council, praying for the vacation of such street, or portion thereof, particularly describing the same. The petition so to be presented to the Council, shall set forth a description of the part of the street proposed or sought to be vacated, and the purpose for which the ground is proposed to be used, and the reason for such vacation, and there shall be appended to such petition, as a part thereof, and as the basis of such vacation, and as the basis of the granting of the prayer of such petition, the consent of the owners in fee simple of at least two thirds of the real estate fronting on both sides of such street, which, or part of which, is proposed to be vacated, estimated upon the frontage of the street, such frontage to commence at a line drawn equidistant from the termini of the street, or a portion thereof, proposed to be vacated, and extending along such proposed vacation the entire length thereof, and two hundred feet in each direction from the termini thereof, unless such street shall not be continuous in either direction, in which case the consent of the owners above provided for shall only be required for the distance that is continuous in either direction. The consent of the owners of the requisite number of front feet heretofore required to be attached to the petition for the vacation of the street shall be given in writing and duly acknowledged before an officer duly authorized to administer oath, and such consent shall be attached to the petition for the vacation, and such petition and consent shall be filed with the Recorder. The Council shall, upon the presentation of such petition, and the filing of the proof of publication of the notice provided, with the Recorder, fix a time for the hearing of said petition, and the objections thereto, if any be filed. Provided, that in the vacation of a plat it shall require the consent of two thirds of all the real estate fronting on the street designated on such plat. At the time fixed by the Council for the hearing of said petition and the objection thereto, if any be filed, the Council shall ascertain and determine whether the consent of the owners of the requisite number of front feet has been obtained as hereinbefore stated, and such findings shall be made a matter of record, and shall be conclusive of the facts as found in all collateral proceedings. If upon such hearing, the Council shall find that the public interests would not be prejudiced by the vacation of such street or plat, or part thereof, applied for, and that the consent of the owners of the requisite number of front feet had been obtained, as herein provided, the Council may grant the prayer of the petitioner, in whole or in part, and may vacate the street or plat sought to be vacated by such petition, and cause such vacation to be made a matter of record.

TITLE OF STREET VACATED:

Section 130. If upon the hearing of the petition for the vacation of such street or plat, or part thereof, as in the preceding section provided for, the Council shall determine that such street or plat should be vacated and shall by ordinance vacate the same, such street or plat shall be attached to the lots or ground bordering on such street or plat, and all right and title thereto shall vest in the owners of the property on each side thereof, in equal proportions. In every case where a street shall have been originally dedicated wholly by the owner or owners of the property abutting upon one side only of such street, then in the event of the vacation of such street, all right and title thereto shall vest in the then owner or owners of the property abutting upon the side of the said street last aforesaid.

VACATION OF STREET OR PLAT BY ORDINANCE—RECORD OF SAME:

Section 130. The vacation of any street, alley or plat by the Council, shall be made by ordinance only, and a certified copy of such ordinance shall be filed for record and duly recorded in the office of the County Clerk of Morrow County, Oregon, and said Clerk shall record the same in the Records of deeds for said County and place an appropriate reference upon the margin of the original plat of said streets, alley or plat or part thereof vacated, to indicate the book and page where such vacation is recorded. No street or plat shall be vacated upon the petition of any person or corporation whereby in such petition it is proposed to re-plat or re-dedicate any street or streets in lieu of the original plat or street unless, said petition shall be accompanied by a plat showing the proposed manner of re-platting of the street, alley or highway, to be dedicated in lieu of the street or streets asked to be vacated, and attached to which proposed plat or dedication there shall be the sworn affidavit of the person proposing to make such new plat or dedicate such street or highways, that such proposed plat or dedication of streets will be made immediately upon the vacation prayed for in the petition in consideration thereof.

Article III.

Establishment and Change of Grades.

COUNCIL EMPOWERED TO ESTABLISH AND CHANGE GRADES:

Section 131. All streets, avenues, boulevards, lanes, alleys and bicycle paths within the corporate limits of the City of Heppner, now open or dedicated to public use, or which may hereafter be opened or dedicated to public use, or which have or may become such by prescription or use, shall be deemed and held to be open, public streets, avenues, boulevards, lanes, alleys and bicycle paths for the purpose of this Charter, and the Council is hereby empowered to establish and change the grade of the same and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in this Charter, in accordance with the directions and proceedings provided in this Charter.

SAME:

Section 132. The Council is hereby authorized and empowered to establish by ordinance the grade of any street within the City, when such grade has not been established, and may require from the City Engineer, or such other Engineer as may be employed, all maps and data it may deem necessary in relation thereto.

NOTICE OF RESOLUTION TO CHANGE GRADES:

Section 133. The Council is hereby authorized and empowered to change by ordinance the grade of any street within the City of Heppner pursuant to the following provisions: Whenever it shall be deemed necessary or expedient to change the grade of any street within the City, the Council shall pass a resolution declaring its intention to make such change of grade and describing the same. Said resolution shall be kept of record in the office of the Recorder, and shall be published for at least two consecutive publications in a newspaper of general circulation published in Morrow County, Oregon. The Recorder shall within three days from the first publication of said resolution cause to be posted in at least two places on the street or streets affected by such change of grade, notices headed, "NOTICE OF CHANGE OF GRADE," in letters not less than one inch length, and shall in legible characters state that such resolution has been passed by the Council, the date thereof, and briefly, the change of grade proposed and the time within written objections or remonstrance against the same may be made. The Recorder shall keep on file in his office an affidavit of the posting of said notices, stating therein the date when and the places where the same have been posted.

REMONSTRANCE BY PROPERTY OWNERS:

Section 134. At any time before twenty days after the first publication of the resolution provided for in the preceding section, the owners of more than one half of the property affected by such change of grade may make and file with the Recorder, written objection or remonstrance against the same, and said objections or remonstrance shall be a bar to any further proceeding thereto, for a period of six months, after which if the Council proposes to change such grade the same proceeding shall be had as in the first instance.

If no such written objections or remonstrance be filed within the time designated, or if the Council finds that the written objections or remonstrance is not legally signed by the owners of more than one half of the property affected by the proposed change of grade, the Council shall be deemed to have acquired jurisdiction to change by ordinance the grade as described in the resolution previously adopted.

(Continued next week)