

CHARTER AMENDMENTS.

In order to cure a number of defects in the present City Charter and provided for the present floating indebtedness of the city, the Council have had the City Attorney prepare a number of amendments to the charter. In order that a general discussion of the matter may be had and anyone who wishes may offer suggestions, before the amendments are voted on, the Council have ordered these published and the amendments proposed, and the Resolution for their publication, are published in the following:

Resolved, by the City Council of the City of Tillamook:

That a measure to amend article 7, a measure to amend article 8, a measure to add article 12, a measure to add article 13, a measure to add article 14, to the Charter of the City of Tillamook, prepared and submitted to the council in conformity with the recommendations of F. R. Beals, Mayor, in his message, be published in two issues of the Tillamook Herald and in two issues of the Tillamook Headlight; and that the legal voters, citizens and taxpayers of Tillamook City be invited to make and file with the Recorder, within sixty days, objections and suggestions in relation thereto for the benefit of the council before the passage thereof, and before submission to the voters for adoption or rejection; and the costs of such publication be paid out of the general fund.

A MEASURE TO AMEND ARTICLE VII OF THE CHARTER OF TILLAMOOK CITY, OREGON.

Be it Enacted by the People of Tillamook City, Oregon, as follows: Section 1: Article VII of the Charter of Tillamook City, Oregon, is hereby amended so that the same shall read as follows:

ARTICLE VII.

Section 1: The term "street" as used in this Article shall be construed to mean any street, avenue, boulevard alley or lane, or any public road which is now or may hereafter be opened or dedicated to public use.

Section 2: The term "improve" and "improvement" as used in this Article shall be construed to include all grading or re-grading, paving or re-paving, planking or re-planking, macadamizing or re-macadamizing, graveling or re-graveling, and all manner of bridge work and roadway improvement or repair, and all manner of constructing and repairing sidewalks, cross-walks, gutters, curbs, manholes, culverts, sewers, drains and tunnels within any of the streets in Tillamook City, or any part of any such street.

Section 3: The Common Council, whenever it may deem it expedient, is hereby authorized and empowered to order the whole or any part of the streets of the City to be improved, to determine the character, kind and extent of such improvement, to levy and collect an assessment upon all lots and parcels of land specially benefited by such improvement, to defray the whole or any portion of the cost and expense thereof, and to determine within the limits hereinafter specified what lands are specially benefited by such improvement, and the amount to which each parcel or tract of land is benefited. Provided, however, that whenever the owners in fee of two-thirds or more of the area of the property upon which an assessment for improvement will be made shall petition the Common Council to order improvements to be made upon any of the streets of the City, specifying the particular portions thereof upon which the improvement is desired, it shall be mandatory upon the Common Council to proceed with the making of such improvement in the manner prescribed in this Article. Provided further, that if said owners of said property of said property shall in and by their petition agree upon the character of improvement which they desire to have made and the material to be used therein, the Common Council shall be bound by the selection so made, and in causing plans and specifications and estimates of the cost thereof to be made, the same shall be made upon the basis of the character of improvement so selected.

Section 4: Whenever the Common Council shall deem it expedient, it may, or upon petition presented in conformity with Section 3 of this Article, it must provide as in this Article prescribed for the improvement of any street by proceeding in the following manner:

It shall require the City Engineer to prepare and present to said Common Council plans and specifications for the improvements desired, and estimates of the work to be done, and the probable cost thereof, and the engineer shall file such plans, specifications and estimates in the office of the City Recorder. If the Common Council shall find such plans, specifications and estimates to be satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and to be assessed for such improvement, and the action of the Common Council in creating such assessment district shall be final and conclusive. Thereupon the Common Council shall, by resolution, declare its purpose of making such improvement, describing the same and including said estimate of the probable total cost thereof, and also defining the boundaries of the assessment district to be benefited thereon and assessed therefor, which district shall be designated as "Local Improvement District No. _____." The action of the Common Council in declaring its intention to improve any street or streets, or any part or parts thereof, directing publication thereof, approving the plans and specifications and estimates aforesaid, and determining the district benefited and to be assessed thereby, may all be done in one and the same resolution. The resolution of the Common Council declaring its purpose to make such improvements shall be kept of record in the office of the City Recorder, and shall be published for three consecutive publications in the city official newspaper.

The City Engineer, within three days from the first publication of said resolution, shall cause to be conspicuously posted at each end of the line of the contemplated improvement a notice which shall contain in legible characters a copy of the resolution of the Common Council, and the date of its adoption, together with a statement of the time within which objections and remonstrances thereto may be filed, and the resolution published in the city official newspaper shall also have published in connection therewith a notice giving the information stated in the notice to be posted by the City Engineer. Proof of the publishing of said notices shall be made by the affidavit of the City Engineer, as to the notices posted by him, and of the printer of the newspaper in which such notice is published, as to the publication thereof, which affidavit shall be filed with the City Recorder in connection with the notice giving the information stated in the notice to be posted by the City Engineer. All engineering expenses, cost of advertisement, cost of superintendency and other incidental costs and expenses necessary to carry into effect the resolutions and ordinances authorizing the improvement, shall be included in the estimate of the entire cost and in the assessment upon the property benefited by such improvement, except as to such part thereof as the Common Council may in said resolution and ordinance provide shall be paid out of the general funds of Tillamook City.

Section 5: Within 20 days from the date of the first publication of the said notice required to be published as provided for in Section 4 of this Article, the owners of two-thirds or more of the area of the property within such improvement district may make and file with the Recorder a written objection to, or remonstrance against said improvement, and said objection and remonstrance shall be a bar to any further proceedings in the making of such improvements for a period of six months. Provided, that if any such objection or remonstrance shall be signed by the agent or attorney of any property owner, there shall be filed with the recorder within the time provided for such objection, remonstrance, the written authority for the signing of such objection or remonstrance, and otherwise such signatures shall be disregarded.

Section 6: If no such objection or remonstrance properly signed as aforesaid be made and filed with the City Recorder within the time designated, the Common Council shall be deemed to have acquired jurisdiction to order the improvement to be made, and it may be thereafter, and within three months from the date of the final publication of its previous resolution, by ordinance provided for the making of said improvement, which shall conform in all particulars to the plans and specifications previously adopted. When the Common Council shall have so provided for the making of an improvement as aforesaid, Tillamook City shall be deemed to have appropriated and acquired ownership of all earth above grade, and within the street lines for said improvement, and no private ownership shall thereafter be claimed in said earth. The Common Council shall have power and authority in providing for any street improvement also to provide for placing in the street where said improvement is to be made, all necessary surface pipes for water, gas, heat, sewerage or any other purpose, and all conduits for electric wires and other purposes that are or may hereafter be necessary. The Council may also provide a certain time after any street improvement is made during which it shall not be torn up or disturbed, and shall also have power and authority to provide that no opening of any street shall be made without first obtaining permission therefor, and the Common Council shall have power to prescribe and enforce all rules regulating the opening of street surfaces in all streets of the city which it may deem necessary to secure the replacing of the street in good condition. And the Common Council shall further have the power and authority, whenever the grade of any street has been established, to authorize the owner or owners of any property thereon to cut down or fill up such street in front of said property according to such grade under the supervision of the City Surveyor or City Engineer, at the expense of such owner or owners. In giving such authority the Common Council may impose such terms and conditions as may be necessary to secure the deposit of earth or other matter excavated from the street upon any part thereof which may need to be filled, and to charge fees for such permits to cover any expense incurred by the City in the survey and inspection of the work to be done.

Section 7: Immediately after the Common Council shall have determined by ordinance to proceed with any improvement or work as hereinbefore provided, the City Council may proceed to make the whole or any part of such improvements, or may proceed to let by contract the furnishing of all material for the making of such improvements, and to have the labor in making such improvements performed under the direction and control of the City Engineer. Or, the Common Council may cause all or any part of such improvements to be made by contract in the manner provided in this Article, provided, that the Common Council may, in its discretion, permit the owner of any part of the property which is to be assessed for the cost of such improvement, to make the improvement in front of the property

owned by him within such time after the passage of the ordinance therefor as the Common Council may deem proper, not exceeding 60 days, and if such improvements be not made by the owner within such time, the Common Council may thereupon proceed to provide for the same by contract or otherwise as hereinbefore authorized.

Section 8: If the Common Council shall desire to have such improvements or any part thereof made, or the furnishing of materials therefor done by contract, it shall direct the Recorder to give notice by publication not for less than three publications in the city official paper, inviting proposals for making such improvements, or furnishing said materials, and may give such other notice as it may deem expedient, provided that not less than 20 days time shall be given from the date of the first publication of said notice for the submission of proposals thereunder. The Common Council shall have the power to award the contract or contracts for said improvement, and to impose such conditions upon the bidders in regard to bonds and securities and the responsibility of the good faith and faithful completion of the work in strict accordance with the specifications therefor, and to make all rules and regulations in the letting of contracts that may be considered by the Common Council as advantageous to the City, and as a part of said regulations they may require that the contractor, or contractors, agree to maintain and keep in repair all improvements made under said contract for such period of time (not exceeding 10 years) as the Common Council may determine.

Section 9: Such contract or contracts shall only be let to the lowest responsible bid, for either the whole of said improvements or such part thereof as will not materially conflict with the completion of the remainder thereof, but the said Common Council shall have the right to reject any and all proposals received by it if they shall be deemed unreasonable or excessive, or which do not conform to the rules of the Common Council relative to the matter of receiving proposals and letting contracts for street work, and provided further, that no such contract shall be let for a price in excess of the City Engineer's estimate of the cost thereof plus 5 per cent. It shall be the duty of the Common Council to fix the time in which every such improvement shall be completed, and it may extend such time should the circumstances warrant. The Common Council shall have power and authority to make all written contracts, to receive and approve all bonds authorized by this Section, to provide for the proper inspection and supervision of all work done under the provisions of this Article, and to do any other act necessary to secure the faithful carrying out of all contracts and the making of improvements in strict compliance with the ordinances and specifications therefor.

Section 11: Whenever any street improvement is completed in whole or in part to the satisfaction of the City Engineer, he shall file a certificate of the completion and his approval of such work so completed with the Recorder, who shall thereupon publish notice of such completion for not less than two publications in the city official newspaper, stating therein when the acceptance of the same will be considered by the Common Council, which time shall be not less than ten days from the date of the first publication of said notice, and at that time, or at any time prior thereto, any owner of any interest in, or the agent of any property within the assessment district of said improvement may appear and file, or make objections to the acceptance of said improvements, and said objections shall be considered and the merits thereof determined by the Common Council, and if it appears that said work or improvement has been completed in accordance with the specifications and contracts, the Common Council shall require the same to be completed before accepting it. Whenever any work or improvement is accepted by the Common Council the Recorder shall endorse the approval of the Common Council on the certificate of the City Engineer, and after the assessment therefor is made and docketed, the Mayor and Recorder shall draw warrants on the funds created for said improvements in favor of the parties entitled thereto. When any work or improvement shall have been let or performed by contract, the same shall be paid out of the funds received from assessments made as in this Article provided, or out of funds derived from the sale of bonds issued upon application of the owners of property assessed for said improvement, no payments shall be made upon any such contract except out of the funds provided by assessment and by bonds issued in conformity with the provisions of this article.

Section 12: When the whole of the improvements covered by any ordinance therefor shall have been fully completed and accepted by the Common Council, the Common Council shall then cause the cost of such work or improvement to be apportioned to the property affected thereby within the improvement district established therefor as required by the ordinance authorizing the same, in the manner following:

Each lot, or tract, or part thereof, within the limits of said improvement district abutting upon any street improved, shall be liable for the full cost, or the proportion thereof hereinafter mentioned, or making said improvement in front of the street lot, tract or part thereof, and also for a proportionate share of the cost of improving intersections of two of the streets bounding the block or tract in which such lot, tract or part thereof is situated, but the said total cost shall be apportioned in accordance with the following plan:

Said local improvement district shall, for the purpose of ascertaining the amount to be assessed against each separate lot, tract or parcel of land, or other property or part thereof

of within said district, be divided into subdivisions, or zones, paralleling the margin of the street to be improved. Said subdivisions to be numbered respectively First, Second and Third. The First subdivision shall include all the lands within the district lying between the street margin and lines drawn parallel therewith and 35 feet therefrom. The Second and 35 feet therefrom. The Third subdivision shall include all lands lying between the district lying between lines drawn parallel with and 35 and 70 feet respectively, from said street margin. The Third subdivision shall include all lands within the district lying between lines drawn parallel with and 70 and 105 feet respectively from such street margins. Provided, however, that should the property abutting upon the street or streets to be improved be divided into blocks of less than 100 feet, the improvement district shall not, unless specially provided by resolution establishing the same, extend further back than to the center of any such block, and the said subdivisions shall be proportionately reduced in size as to such part of said improvement district, unless the resolution establishing said district shall provide that the width herein originally provided for the construction or repair of sidewalks the Common Council may in establishing the local improvement district therefor provide that the total cost thereof shall be assessed to and charged against the lots or tract improved fronting and abutting upon that portion of said streets where said sidewalks are to be constructed or repaired, in which case no part of the cost shall be charged or assessed against any other property than that immediately fronting and abutting upon said street so improved.

The rate of assessment per square foot in each subdivision shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions First, Second and Third respectively are related to each other as are the numbers 55, 30 and 15 respectively, and shall be ascertained in the following manner:

The product of the number of square feet in subdivision First, Second and Third respectively, and the numbers 55, 30 and 15 respectively, shall be ascertained, and their sum taken, which sum shall be divided into the total cost and expense of such improvement. The products of the resultant quotient and the numbers 55, 30 and 15 respectively shall be the separate rates of assessment per square foot for subdivisions First, Second and Third respectively. The total assessment thus ascertained against each separate lot, or part of lot, tract or parcel of land, or other property within such district, shall be apportioned as the amount to be levied and assessed against each separate lot or part of lot, tract, parcel of land or other property respectively. Provided however, that the Common Council may, in its discretion, at the time of establishing any local improvement district, order or provide that any portion of the cost of the making of such improvements, or any specified part thereof, shall be paid out of the general fund of Tillamook City.

Section 13: After such apportionment shall have been made of the entire cost and expense of such improvement, the Common Council shall give notice of the time and place for hearing objections thereto by publication in two consecutive weeks in a weekly newspaper published in Tillamook City, which time shall not be less than 15 days, nor more than 30 days, from the date of such notice, and at the time and place fixed in such notice, or at such other time as the hearing may be adjourned to, the Common Council shall hear and determine all objections to the apportionment of the cost of such street improvements, and upon such hearing may make such changes therein as shall be necessary to make such apportionment equitable and just.

Section 14: After the hearing provided for in Section 13 in this Article, and after making such changes in the apportionment as are therein provided for, and when the same shall have been fully determined by the Common Council, the Common Council shall declare and assess the same by ordinance upon the property benefited by such improvement, and each lot, part of lot, or parcel of ground shall be assessed with its proportionate share of such cost as herebefore provided, and said assessment shall be final and conclusive, and the said ordinance shall further direct the Recorder to enter a statement of the said assessed cost in the docket of city liens as provided for in this Article.

Section 15: The docket of city liens is a book in which must be entered by the Recorder the following matters in relation to assessments for the improvement and repair of streets, and for the construction and repair of sewers and drains, and the benefits and damages assessed for opening, widening, straightening, and extending streets, and changing the grades thereof: First, the number or letter of the lot assessed, and the letter or number of block in which it is situated, and if a separate assessment is made upon a part of a lot, or tract of land, a particular description of such part of lot or tract; Second, the name of the owner thereof, or that the owner is unknown; or that the owner is unknown; or that the case; Third, the sum assessed upon each lot or part thereof, or tract of land or part thereof, and the date of the entry thereof; Provided, however, that a failure to enter the name of the owner, or a mistake in the name of the owner in such entry, or the entry of a name other than the true owner, shall not render void or vitiate such assessment or in any way effect the lien of Tillamook City or the property described in such lien docket.

authority of the State or of the United States, and any sum or sums of money assessed for improvement or repair of a street, or benefit assessed for opening, widening, straightening or extending any street, or for a change of the grade thereof, or for the construction or repair of a sewer or drain, entered upon such lien docket shall be collected in the manner hereinafter prescribed.

Section 17: Notice shall be given by the City Recorder to the owner or owners of any such lot or part thereof, or tract or parcel of land, of the entry of such assessment in said lien docket, specifying the amount thereof, within five days after the entry thereof in said docket, which notice shall be given by mail if the post-office address of the owner or his agent is known, and if unknown by addressing the same in the name of the owner or at Tillamook City, Oregon, and also by publishing the notice thereof in one issue of a weekly newspaper published in Tillamook City.

Section 18: Whenever the owner of any such lot or part thereof, or tract or parcel of land upon which an assessment has been levied and docketed as herein provided for, shall desire, he may within thirty days after notice of such assessment is first published apply to the City Recorder of Tillamook City to pay said assessment in installments as hereinafter provided, and thereupon he shall be deemed to have collected such assessment shall issue or be enforced, except as provided by this article in such cases.

Section 19: If within 30 days from the date of the entry of such assessment in said lien docket the whole or any portion of the sum assessed upon a lot or part thereof, or tract or parcel of land, remains unpaid, and such owner shall not have applied for leave to make payment in installments as hereinafter provided, upon order of the Common Council a warrant for the collection of the same shall be issued by the Recorder directed to the marshal of Tillamook City. Whenever such assessment shall have been paid to the City Treasurer, who is hereby authorized and designated as the person to receive the same, the Treasurer shall issue a duplicate receipt for said payment and file one copy thereof with the City Recorder, and the Recorder shall upon receiving said duplicate receipt immediately cancel said lien upon said docket of city liens by entering upon the face thereof an entry of the satisfaction of such assessment signed by himself in his official capacity.

Section 20: Such warrant shall, for the purpose of making sale of such real property upon which assessments are delinquent and unpaid, be deemed and held as an execution against said real property for the amount of said assessment with interest and costs, and the Marshal shall, within 60 days from the receipt of said warrant, sell the property therein described. Such sale shall be at public auction to the highest bidder for cash in hand, and shall take place at the front door of the building in which the Common Council holds its sessions, and the Marshal shall give notice of such sale by publication thereof once a week for four consecutive and successive weeks in a weekly newspaper published in Tillamook City, and by posting such notice for a like period of time in not less than three public places in said city. Such notice of sale shall contain a description of the lot, or lots, or parts thereof, or tracts of land, or parts thereof, in which the same is situated, that the same is to be sold for said delinquent assessment, with the amount of said assessment, interest and costs to date of sale, including cost of advertisement, due upon each lot or tract or part thereof, together with the name of the owner or reputed owner, or that the owners are unknown as the same appears upon said docket of city liens, and shall also specify the time and place of sale, and that the described therein will be offered for sale to satisfy the assessments, interest and costs due upon each tract, lot or parcel of land, or part thereof, and each lot, tract or parcel of land, or part thereof shall be sold separately. Providing however, that all delinquent assessments assessed in one ordinance may be included in one sale, and all such sales shall be made between the hours of 9 o'clock a.m. and 4 o'clock p.m. Provided further, that said sale may be postponed in like manner as now provided by the laws of Oregon for the adjournment of sales of real property upon execution.

Section 21: The Marshal executing such warrant shall immediately issue a certificate of sale to the purchaser for the property sold, stating therein that the sale is made subject to redemption, and that a deed will be issued thereon at the expiration of the time for redemption if no redemption be made prior to said date. Within one year from the date of the sale the owner, or his successor, or any person having a lien by judgment, decree or mortgage upon the property sold, or any part thereof, may redeem the same by the payment of purchase money and twenty per cent thereon, with interest upon the purchase money from the date of the sale to the time of redemption at the rate of 6 per cent per annum, and the amount of any taxes which the purchaser has or assigns may have paid upon said property, with interest thereon at the legal rate from the date of such assessment, to be paid to the City Recorder for the purchaser. Notice of redemption shall be given as now provided for by the laws of the State of Oregon for the redemption of real property from sale upon execution.

Section 22: A redemption as prescribed in the foregoing Section directed to the owner of such assessment, and if made by the owner or his successor in interest, the ownership of such property is thereby restored to such owner or his successor in interest, but if made by a lien creditor the amount paid for the redemption shall thereafter be deemed to be a part of his judgment, decree, mortgage or other lien as the case may be, and collected as a part thereof.

Section 23: After the expiration

of one year from the date of the certificate of sale issued by the Marshal if no redemption shall have been made the then acting Marshal shall execute and deliver to the purchaser, his heirs or assigns, upon application therefor, a surrender of such certificate a deed of conveyance of the property sold, reciting the description of the same as described in the docket of city liens, the amount paid, the name of the owner, or that the name of the owner is unknown, and the date of docketing the lien, and that the property was sold for delinquent assessment for street improvements, or for opening, laying out, widening, straightening, extending or changing grade of streets, or construction of sewers, or drains, as the case may be, and that said assessment was due and unpaid at the time of sale, and that no redemption had been made. Such deed shall be executed conformably to the laws of the State of Oregon so as to make it legible for record, and the same shall operate to convey to the purchaser a fee simple title to the said property free and clear of all incumbrances, except for taxes as mentioned in Section 16 of this Article. Upon the delivery of such deed the Marshal shall file a certificate of sale with the Recorder, and it shall be a public record. Upon delivery of such deed all of the proceedings required or directed by this Article in relation to the making, levying and docketing of such assessments and the sale of the property for the satisfaction thereof, shall be presumed to be regular, and such deed shall be prima facie evidence of the regularity of all proceedings required to be had under the provisions of this Article and of title in the grantee.

Section 24: In any action, suit or proceeding instituted in any court for the recovery of any lands sold for any assessment under the provisions of this act, the party claiming to be the owner as against the holder of the deed from the Marshal, must, with his complaint or answer as the case may be, pay into the court the amount of the purchase money for which the particular tract of land or lot sought to be recovered was sold, together with 20 per cent thereof additional, and also interest on said purchase money from the date of sale to the date of the institution of such suit at the rate of six per cent per annum, together with all the costs and expenses of sale and of recording the said deed, and also any and all taxes the purchaser may have paid on said property with the legal interest thereon from the date of payment thereof for the benefit of the holder of said deed, his heirs or assigns, in case his or their title under such deed shall fail in said action, suit or proceeding. Provided further, that the person claiming title under the deed of the Marshal shall have judgment against the party claiming against said deed for such amount as the court may adjudge reasonable for the bringing of a defending of any such action, suit or proceeding, regardless of the result of such suit, action or proceeding, or whether he be plaintiff or defendant therein.

Section 25: Whenever any lot or tract or part thereof sold for delinquent assessments as herein provided brings more than the amount of the assessment and all costs and charges of collection, the surplus shall be paid to the City Treasurer, and the person executing such warrant shall take a separate receipt for such surplus and file the same with the Recorder on return of payment of the warrant, and the Common Council shall order such surplus paid to the person or persons entitled to the same, on demand, upon receiving satisfactory proof that such person is the one entitled to receive such surplus. Provided further, that whenever any property is offered for sale for delinquent assessments as herein provided, if a sufficient amount is not paid therefor to pay such assessment together with all costs and expenses of sale in connection therewith, the Mayor of Tillamook City is hereby empowered and authorized to bid for and in behalf of said city the amount of such assessment, together with said costs and expenses assessed thereon or charged against said property or each part or parcel thereof, and if there be no higher or better bidder such land, lot or parcel of land or part thereof, shall be sold and become the property of said city, subject to redemption as herebefore provided, to be paid for by warrant of the city upon the general funds thereof. Whenever the city shall acquire title to any such property the same may be sold by order of the Common Council at such price and on such terms as it may see proper.

Section 26: All of the provisions of Sections 3245 to 3253, both inclusive, of Lord's Oregon Laws, are hereby made expressly applicable to all assessments for street improvements under the provisions of this Article. Provided, however, that in all such cases the application to pay by installments provided for in Section 3245 of Lord's Oregon Laws may be made within 30 days after notice of assessment is first published instead of within 10 days as in said section provided. And provided further, that interest on all unpaid installments shall be paid semi-annually by the property owners, or other persons required to make such payment, instead of annually as provided in Section 3249 of said Lord's Oregon Laws.

Section 27: For all of the purposes of this Article the Surveyor of Tillamook City shall be deemed to be the City Engineer, and the Common Council is authorized to employ such assistants for the Surveyor as may be necessary to enable him to properly perform any and all of his duties arising under this Article or otherwise.

Section 28: The Common Council of Tillamook City is hereby authorized and empowered to establish by ordinance the grade of any street within Tillamook City when such grade has not been established, and may require from the City Engineer all maps and data it may deem necessary in relation thereto. After the grade of any street has been established by the Common Council the same may be by the Common Council thereafter changed pursuant to the following provisions:

Whenever it shall be deemed expedient to change the grade of any