

CITY OF COOS BAY
Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
March 17, 2015	

TO: Mayor Shoji and City Councilors

FROM: Jim Hossley, Public Works Director 

Through: Rodger Craddock, City Manager 

ISSUE: Consider Approval to Initiate Improvements - Local Improvement District
Nutwood Avenue and 11th Street

BACKGROUND:

Neighbors along Nutwood Avenue and 11th Street have signed a petition to form a Local Improvement District (LID) to pave a portion of the gravel roads in their neighborhood, Nutwood Avenue and 11th Street. Chapter 3.15 of the Coos Bay Municipal Code (CBMC) provides direction regarding the formation of LID's. Per the code *"When owners of two-thirds of the property that will benefit by improvements request by written petition that the council initiate an improvement and submit a \$1,000 bond in favor of the city, the council shall direct the director of public works to have a survey made of the improvement and file a written report with the recorder. The bond shall be forfeited to cover the costs of engineering in the event the improvement district is not formed."*

To submit the petition, at least 66.67% of the property owners need to sign. There are nineteen (19) lots/parcels that benefit from the proposed improvement. Owners of thirteen (13) of the lots/parcels signed the petition to initiate the improvements. Thus, 68% of the owners of the property that will benefit by the improvements signed the petition. The petitioners also provided a \$1000 bond in the form of a check.

Should the Council wish to proceed with the LID, I will move forward with preparing a written report pursuant to CBMC 13.15.040. Unless otherwise directed by the Council, the proposed street improvement section will be done pursuant to standards found in the City's Transportation System Plan (TSP). The minimum width for an asphalt street section in residential neighborhoods is 28 feet. The street section includes two travel lanes 10 feet wide plus 8 feet for parking on one side of the street. Concrete curbs and sidewalk are also part of the street section. To minimize cost, the Council might consider reducing the asphalt section width to 20 feet, delete the sidewalk, and provide curbing only where necessary for drainage control. Using either section, besides asphalt, gravel and concrete costs, there will be cost for design and survey, grading, retaining structures (if necessary), drainage control, and utility adjustments.

ADVANTAGES:

Paving the streets will improve neighborhood access and increase neighborhood property values. Relieve the City maintenance crews from having to grade the street.

DISADVANTAGES:

Upfront cost for the design and construction of the improvements are paid for by the City. Full repayment may be as much as ten years.

BUDGET IMPLICATIONS:

Funding for this project would typically come from Special Improvement (LID) Fund 15. In the FYE 15 budget, there is a carryover balance of approximately \$144,000. However, the budget also includes transferring \$130,000 of this carryover to the General Fund to help balance the budget. To date the transfer has not been made however the proposed FYE 16 includes the \$130,000 transfer. A cost estimate for the improvements will be one result of the written report prepared by the Public Works Director.

RELATED CITY GOAL:

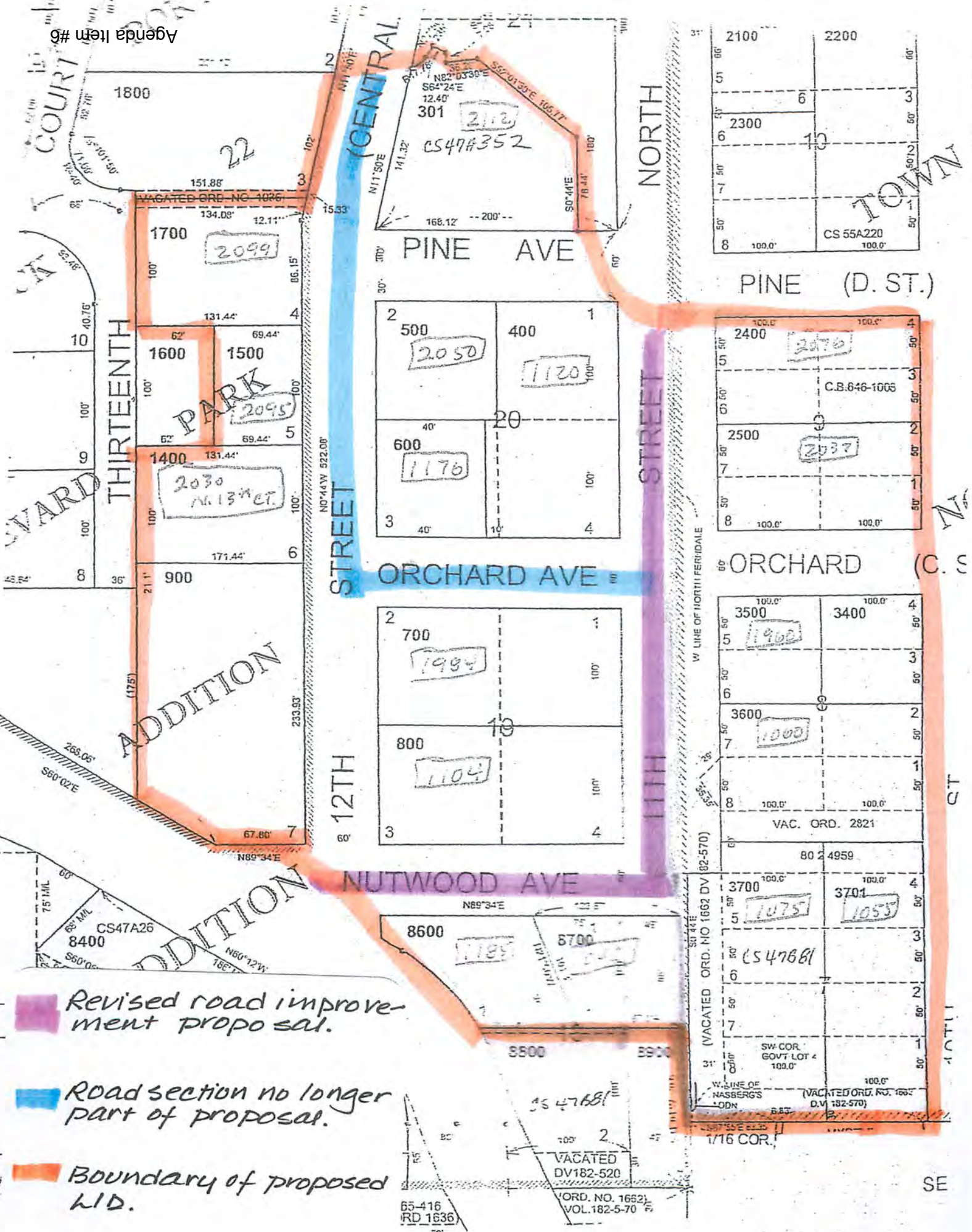
Maintain and improve the City's physical infrastructure and provide quality services for current and future citizens

ACTION REQUESTED:

If it pleases the Council, in consideration of available funds determine whether or not to direct the Public Works Director to have a survey made of the Nutwood and 11th Street road improvement and file a written report with the recorder. Should Council decide to move forward direct staff regarding designing the project to the full TSP section or a reduced section.

ATTACHMENT:

Maps of the property location
Petition for creation of LID
CBMC 3.15



THIRTEENTH

(CENTRAL) STREET

NORTH STREET

PINE AVE

ORCHARD AVE

NUTWOOD AVE

PINE (D. ST.)

ORCHARD (C. S.)

ADDITION

PARK

WARD

TOWN

Revised road improvement proposal.

Road section no longer part of proposal.

Boundary of proposed L.I.D.

PETITION FOR THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT

Before the City Council of the City of Coos Bay, Oregon

PETITION:

In the matter of forming a local improvement district, on the following described street or property: **Nutwood Ave. – N. 11th St. – Orchard Ave. & N. 12th St.**

For the purpose of **putting an asphalt surface on above mentioned streets.**

We the undersigned, support the formation of a local improvement district and do understand that all costs associated with this improvement will be paid for by the affected property owners through property tax assessments and we do hereby give our consent to such assessment in principle while reserving the right to withdraw support of this project if the burden becomes too great:

Name and Address

Description of Property

Blank A. Halman
Virginia I. Tabor

Block# 9 Lot(s) 3-6

2300

Name
2076 N. 11th Street

Addition North Ferndale

Address
Shara Main
Craig Main

Block# 8 Lot(s) 1,2,7 & 8

3000

Name
1060 Nutwood

Addition North Ferndale

Address
Lisa Rojas
Guillermo Rojas

Block# 9 Lot(s) 5 & 6

3500

Name
1960 N 11th ST

Addition North Ferndale

Address
Myriam Walton
Tom F. Wall

Block# 9 Lot(s) 1,2,7 & 8

2500

Name
3037 N. 10th St

Addition North Ferndale

Address

Petition to form LID for the purpose of paving Nutwood Ave., N. 11th St., Orchard Ave. & N. 12th St.

Tenn Pittenger
[Signature]
Basil Pittenger

Name
1104 Nutwood Ave
Address

Block# 19 Lot(s) 3-4

Addition Boulevard Park Addition
93 BOE #171 1993-94

TL
800

Jane L Buggs Trust
Name
1045 Nutwood
Address

Block# 18 Lot(s) Per Lot 1

Addition Boulevard Park Addition
93 BOE #16 1993-94 Revised

8700

Mary J R Roberts
Name
1120 Orchard Avenue
Address

Block# 20 Lot(s) 1, 4 E. 10' of 3,

Addition Boulevard Park Addition

400

Jane A Glasgow Removable Trust
Name
1075 Nutwood Ave
Address

Block# 7 Lot(s) 5-8

Addition North Ferndale

3700

Lyn R Huslon
Name
1330 Y6W AVE
Address

Block# 22 Lot(s) E 69.44' Lot 5
RNC # 09-0049

Addition BLVD PARK ADD, SUBDIVISION

1500

Bari King
Name
938 N 9th
Address

Block# 20 Lot(s) 2

Addition Boulevard Park Addition

500

[Signature]
Name
1126 ORCHARD AVE
Address

Block# 20 Lot(s) W 90' Lot 3

Addition Boulevard Park Addition

600

Elizabeth M Taylor
Name
1176 ORCHARD AVE
Address

Block# 20 Lot(s) W 90' Lot 3

Addition Boulevard Park Addition

Bole W. P. Wiltun

Name

750 MARKET AVE, COOS BAY

Address

Adam Gurd

Name

1984 N 12th Street Coos Bay

Address

Name

Address

Name

Address

Name

Address

Name

Address

Name

Address

Block# 8 Lot(s) 3-4

Addition North Fernalde

3400

Block# 19 Lot(s) 1,2
01984 N. 12th

Addition Boulevard Park Addition

700

Block# _____ Lot(s) _____

Addition _____

Block# _____ Lot(s) _____

Addition _____

Block# _____ Lot(s) _____

Addition _____

Block# _____ Lot(s) _____

Addition _____

Block# _____ Lot(s) _____

Addition _____

Chapter 3.15 LOCAL IMPROVEMENT DISTRICTS

Sections:

- 3.15.010 Short title.
- 3.15.020 Definitions.
- 3.15.030 Initiating improvements.
- 3.15.040 Public works director's report.
- 3.15.050 Action on report.
- 3.15.060 Resolution and notice of hearing.
- 3.15.070 Remonstrance against formation of local improvement district.
- 3.15.080 Public hearing.
- 3.15.090 Creation of district.
- 3.15.100 Modification.
- 3.15.110 Alternative procedure.
- 3.15.120 Construction of improvement.
- 3.15.130 Costs of improvement.
- 3.15.140 Assessment method and alternative methods of financing.
- 3.15.150 Assessment ordinance.
- 3.15.160 Notice of assessment.
- 3.15.170 Lien record and foreclosure proceedings.
- 3.15.180 Error in assessment calculation.
- 3.15.190 Supplemental assessments.
- 3.15.200 Rebates.
- 3.15.210 Abandonment of proceedings.
- 3.15.220 Curative provisions.
- 3.15.230 Reassessment.
- 3.15.240 Withholding building permit.
- 3.15.250 Partition.

3.15.010 Short title.

This chapter shall be known as the local improvement ordinance. [Ord. 131 § 1, 1989].

3.15.020 Definitions.

As used in this chapter, the following shall mean:

“Local improvement” includes:

- (1) The grading, graveling, paving, or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade of or constructing any street;
- (2) The construction or reconstruction of sidewalks;
- (3) The installation of street lights;

- (4) The installation of underground wiring or related equipment;
- (5) The reconstruction or repair of any street improvement;
- (6) The construction, reconstruction or repair of any sanitary or storm sewer;
- (7) The acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facility;
- (8) The construction, reconstruction, alteration, relocation or repair of any flood control dike, dam, floodway, or drainage facility;
- (9) The construction, reconstruction, installation and equipping of a park, playground or neighborhood facility;
- (10) Any other local improvement for which an assessment may be made on the property specially benefitted.

"Local improvement district" means the property which is to be assessed for the cost or part of the cost of local improvement and the property on which the local improvement is located.

"Lot" means a lot, block or parcel of land.

"Owner" means the record holder of legal title or the purchaser where land is being purchased under a land sale contract recorded or verified in writing by the record holder of legal title to the land.

"Property benefitted" means all real property specially benefitted by the public improvement and assessable therefor. [Ord. 131 § 2, 1989].

3.15.030 Initiating improvements.

- (1) When the council considers it necessary to make a local improvement to be paid for in whole or in part by special assessment according to benefits conferred, the council shall direct the director of public works to have a survey made of the improvement and file a written report with the recorder.
- (2) When owners of two-thirds of the property that will benefit by improvements request by written petition that the council initiate an improvement and submit a \$1,000 bond in favor of the city, the council shall direct the director of public works to have a survey made of the improvement and file a written report with the recorder. The bond shall be forfeited to cover the costs of engineering in the event the improvement district is not formed. [Ord. 131 § 3, 1989].

3.15.040 Public works director's report.

Unless the council directs otherwise, the public works director's report shall contain the following:

- (1) A plat or map showing the general nature, location and extent of the proposed improvements and the lands to be assessed to pay all or any part of the cost thereof;
- (2) Plans, specifications and estimates of the work to be done;

- (3) An estimate of the probable cost of the improvement including legal, administrative and engineering costs attributable thereto;
- (4) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the property specially benefitted;
- (5) An estimate of the unit cost of the improvement to the specially benefitted properties;
- (6) A description of the location and assessed value of each parcel of land, or portion thereof, to be specially benefitted by the improvement, with the names of the record owners thereof as herein defined;
- (7) A recommendation of the payment schedule and interest to be charged on assessments paid in installments;
- (8) A statement showing outstanding assessments against property to be assessed;
- (9) Any other information required by the council. [Ord. 131 § 4, 1989].

3.15.050 Action on report.

After the public works director's report is filed with the recorder, the council may approve the report, modify the report and approve it as modified, require public works to supply additional or different information for the improvement, or abandon the improvement. [Ord. 131 § 5, 1989].

3.15.060 Resolution and notice of hearing.

After the council has approved the report as submitted or as modified, the council shall declare by resolution that it intends to make the improvement and direct the recorder to give notice of the council's intent by publication, not less than 10 days prior to the public hearing, in a newspaper of general circulation in the city and by mailing copies of the notice to the owners of any lots which would be property benefitted by the proposed improvement. The notice shall contain the following:

- (1) That the report of the public works director is on file in the office of the recorder and is subject to public examination.
- (2) That the council will hold a public hearing on the proposed improvement on a specified date at which time objections and remonstrances to the improvement will be heard by the council, and that the improvement will be abandoned for not less than six months if written remonstrances are filed before or during the hearing by owners of lots representing 67 percent of the estimated assessed cost of the improvement.
- (3) A general description of the proposed improvement and a description of the property sufficient for the average reader to determine the general location.
- (4) In addition, the notice mailed shall estimate the total cost of the improvement, the portion to be paid by special assessment, and the estimate of the unit cost of the improvement to the property benefitted. [Ord. 131 § 6, 1989].

3.15.070 Remonstrance against formation of local improvement district.

(1) If written, signed objections to the establishment of a local improvement district are filed with the recorder by the end of the public hearing on the establishment of the district by the owners of lots which represent 67 percent of the estimated assessed cost of the proposed local improvement, the council shall not make the proposed improvement nor shall the council reinstate formation of the district until at least six months after the date of the public hearing.

(2) If there is multiple ownership of a lot, each remonstrating multiple owner shall be counted as a fraction to the same extent as the owner's interest in the lot bears in relation to the other multiple owners, and the same fraction shall be applied to the lot's proposed assessment for purposes of computing the remonstrance.

(3) Any person acting as agent or attorney with power to act in signing a remonstrance shall, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner of the property. [Ord. 131 § 7, 1989].

3.15.080 Public hearing.

The council shall hear and consider testimony, both oral and written, on the proposed improvement and may continue the hearing as it deems necessary. [Ord. 131 § 8, 1989].

3.15.090 Creation of district.

If written remonstrances are less than the amount required to defeat the proposed improvement, the council may by motion at the close of the hearing or within 60 days thereafter, based on the public testimony, order the improvement district created in accordance with the engineer's report or abandon the improvement. [Ord. 131 § 9, 1989].

3.15.100 Modification.

After the public hearing, the council may direct a modification of the proposed local improvement by revising the scope of the improvement, by reducing or enlarging the local improvement district which it deems will be benefitted by the improvement, or by making such other modifications in the proceedings as it finds reasonable. In such case, a revised report must be made, notices mailed and published, and a second hearing held, all as set forth in CBMC 3.15.040 through 3.15.090. [Ord. 131 § 10, 1989].

3.15.110 Alternative procedure.

When all of the owners of property to be benefitted by a local improvement have signed a petition directed and presented to the council requesting the local improvement, the council may initiate and construct the local improvement without publishing or mailing notice to the owners of the affected property and without holding a public hearing regarding the proposed local improvement. [Ord. 131 § 11, 1989].

3.15.120 Construction of improvement.

The council may direct the recorder to advertise for bids for such improvements or portions thereof as it has approved, or the city itself may proceed to make said improvement or any portion thereof. If the council finds on opening bids that the cost of the improvement would be substantially in excess of the

estimate, it may provide for holding a special hearing to consider objections to proceeding with a higher project cost. [Ord. 131 § 12, 1989].

3.15.130 Costs of improvement.

The costs and expenses of local improvement that may be assessed against the property benefitted shall include, but not be limited to, costs of construction of the improvement, engineering and administrative costs of creating the district and letting the bids, inspection costs, financing costs including interest, costs of acquisition of any easements or other property, and attorneys' fees. [Ord. 131 § 13, 1989].

3.15.140 Assessment method and alternative methods of financing.

(1) The council, in adopting a method of assessing the cost of the improvement, may:

(a) Use any just and reasonable method to determine the boundaries of an improvement district consistent with the benefits derived.

(b) Use any just and reasonable method to apportion the sum to be assessed among the benefitted properties.

(c) Authorize payment by the city of all or part of the cost of an improvement when in the opinion of the council the topographical or physical conditions, unusual or excessive public travel, or other character of the work warrants only partial payment or no payment of the cost by owners of benefitted properties.

(2) Nothing contained in this section shall preclude the council from using other means of financing improvements, including federal and state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or other legal means of finance. If other means of finance are used, the council may levy special assessments according to benefits derived to cover any remaining cost. [Ord. 131 § 14, 1989].

3.15.150 Assessment ordinance.

(1) When the estimated cost is determined on the basis of contract award or city cost or after the work is done and the cost has been actually determined, the council shall decide whether the benefitted property shall bear all or a portion of the cost. The recorder shall prepare the proposed assessment for each lot within the local improvement district and file the assessments in the recorder's office.

(2) Notice of the proposed assessment shall be mailed to the owner of each lot proposed to be assessed at the address shown on the Coos County tax assessor's roll. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections shall be filed with the recorder. An objection shall state the grounds for the objection. The notice shall also specify the date of the council meeting at which the council will sit as a board of equalization and will conduct a public hearing.

(3) At the hearing the council shall:

- (a) Consider objections and may adopt, correct, modify or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement.
- (b) By ordinance, declare and levy the assessment and direct the recorder to enter a statement thereof in the docket of city liens as provided for in CBMC 3.15.170. [Ord. 131 § 15, 1989].

3.15.160 Notice of assessment.

- (1) Within 10 days after the ordinance levying assessments has been passed, the recorder shall send a notice of assessment to each owner of assessed property by certified mail.
- (2) The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment, and the date of the assessment ordinance, and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within 10 days after the date of the publication of notice or pays the assessment in full within 60 days after the effective date of the assessment ordinance. [Ord. 189, 1992; Ord. 131 § 16, 1989].

3.15.170 Lien record and foreclosure proceedings.

- (1) After the assessment ordinance is adopted, the recorder shall enter into the docket of liens a statement of the amount assessed on each lot, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket, the amounts shall become liens and charges on the lots that have been assessed for improvement.
- (2) Assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as state law permits.
- (3) Thirty days after the effective date of the assessment ordinance, interest shall be charged at the rate set by the council, and the city may foreclose or enforce collection of assessment liens in the manner provided by state law.
- (4) The city may enter a bid on property being offered at a foreclosure sale. The city shall have priority over all bids except those made by persons who would be entitled under state law to redeem the property. [Ord. 131 § 17, 1989].

3.15.180 Error in assessment calculation.

Claimed errors in the calculation of assessments shall be called to the attention of the recorder, who shall determine whether there has been an error. If there has been an error, the recorder shall recommend to the council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by certified mail. [Ord. 131 § 18, 1989].

3.15.190 Supplemental assessments.

If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvements, the council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The council shall set a time for hearing objections to the supplemental assessment and direct the recorder to publish one

notice of the hearing in a newspaper of general circulation in the city. After the hearing the council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens as provided by CBMC 3.15.170. Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, in accordance with CBMC 3.15.160 and 3.15.170. [Ord. 131 § 19, 1989].

3.15.200 Rebates.

On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit. [Ord. 131 § 20, 1989].

3.15.210 Abandonment of proceedings.

The council may abandon proceedings for improvements at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be cancelled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative. [Ord. 131 § 21, 1989].

3.15.220 Curative provisions.

(1) An improvement assessment shall not be rendered invalid by reason of:

- (a) Failure of the public works director's report to contain all information required by CBMC 3.15.040.
- (b) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket, or notices required to be published and mailed.
- (c) Failure to list the name of or mail notice to an owner of property as required by this chapter.
- (d) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.

(2) The council shall have authority to remedy and correct all matters by suitable action and proceedings. [Ord. 131 § 22, 1989].

3.15.230 Reassessment.

When an assessment, supplemental assessment, or reassessment for an improvement made by the city has been set aside, annulled, declared or rendered void, or its enforcement restrained by a court of this state or by a federal court having jurisdiction, or when the council doubts the validity of the assessment, supplemental assessment, reassessment, or any part of it, the council may make a reassessment in the manner provided by state law. [Ord. 131 § 23, 1989].

3.15.240 Withholding building permit.

If payments on assessments are delinquent, no building permit shall be issued for improvement of the benefitted real property. [Ord. 131 § 24, 1989].

3.15.250 Partition.

When there has been an approved partition of a parcel and that parcel has outstanding a special assessment remaining wholly or partially unpaid, and full payment or an installment payment is not due, then any owner, mortgagee or lien holder of any property affected by this partition may apply for an apportionment of the special assessment. Apportionment of the special assessment shall be done by resolution of the council, and that resolution shall be filed with the lien docket. Where the special assessment is being paid in installments, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with the percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment. Apportionment shall be on the same basis as the original assessment. [Ord. 131 § 25, 1989].

The Coos Bay Municipal Code is current through Ordinance 466, passed November 4, 2014.

Disclaimer: The City Recorder's Office has the official version of the Coos Bay Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.
