

ORDINANCE NO. 2009-11

AN ORDINANCE CREATING PUBLIC UTILITY WATER SERVICE DISTRICT NO. 2009-01 OF THE CITY OF WAYNE, NEBRASKA; ESTABLISHING THE PROPERTIES CONTAINED WITHIN THE BOUNDARIES OF THE SAID DISTRICT; DESIGNATING THE SIZE, LOCATION AND TERMINAL POINTS OF WATER MAINS WITHIN SAID DISTRICT; AND REFERRING TO PLANS AND SPECIFICATIONS AND COST ESTIMATES AS PREPARED BY THE ENGINEER IN CONNECTION THEREWITH AND ON FILE WITH THE CITY CLERK.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. The Mayor and Council of the City of Wayne, Nebraska, hereby find and determine that it is necessary and advisable to construct improvements to the existing municipal water system consisting of expanding, improving and installing water mains and related improvements to expand, enlarge, and otherwise upgrade certain portions of the City's existing system of water service lines and mains, and for that purpose there is hereby created Public Utility Water Service District No. 2009-01 of the City of Wayne, pursuant to Sections 18-401 through 18-406, Reissue Revised Statutes of Nebraska, 1997, as amended.

Section 2. The outer boundaries of Public Utility Water Service District No. 2009-01 shall consist of a tract of land located in Wayne County, Nebraska, outside of the City's corporate limits but within the City's utility service areas and within the City's jurisdictional limits, being specifically described as follows:

The boundaries of the project area consist of a tract of land located in Wayne County, Nebraska, including property located in Section 1, Township 26 North, Range 3 East, in Wayne County Nebraska including the following lots, tracts or parcels located in Muhs Acres development tract: Block 1, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 18 and 19; Block 2, lots 1, 2, 3, 4, 5, 6, 7, 12, and 13; and Tax Parcel No. 27 in Section 1, Township 26, Range 3

East, Wayne County, Nebraska, together with County Road West 21st Street right-of-way immediately adjacent to the south of the aforesaid described blocks, lots and parcels.

Within said Public Utility Water Service District No. 2009-01, water mains and water distribution improvements together with control systems, and other necessary and appurtenant improvements shall be constructed for the purpose of improving, enlarging and expanding the existing water system. The size, location and terminal points of the water mains, water distribution lines and related improvements located both within and without the bounds of said District shall consist of the following:

Phase I Improvements (Transmission lines) - located within or without the bounds of said District:

Phase I improvements shall consist of transmission lines, interconnections and control equipment linking the existing water well house located on the north side of the Wayne County Road know as West 21st Street, including construction of a 12 inch water transmission line beginning at the existing well house and terminating with a connection to the distribution mains to be located in Public Utilities Water Service District No. 2009-01 at its intersection with Highview Drive in Muhs Acres. Phase I improvements shall be constructed at the cost and expense of the Wayne Water Utilities System utilizing existing rights-of-way for the placement of the utility improvements in Wayne County roadway easements and rights-of-ways. Wayne Water Utilities System shall acquire necessary construction easements and pay the cost of such easements.

Phase II Improvements (Distribution Lines) - located wholly within the bounds of said District:

Phase II Improvements shall consist of all improvements to be constructed within Public Utility Water Service District 2009-01, including 8 inch distribution mains, connection taps, meters, control devises, fire hydrants, and all other necessary appurtenant improvements. Said Phase II improvements shall be made at public cost but such cost together with a portion of the costs of transmission mains and related improvements shall be assessed against benefiting properties within the said District as shall be determined by the Mayor and City Council after completion of project improvements.

Section 3. Reference is hereby made to the plans and specifications for said sanitary sewer extensions, which have been prepared by Olsson & Associates, special engineers for the City, and which, together with said engineers' estimate of the total cost for the proposed sanitary sewer extensions, have heretofore been filed with the City Clerk.

Section 4. The engineers' estimate of total cost for the proposed improvements in said District including engineering and miscellaneous costs is:

Total Estimated Cost \$147,000

Section 5. The Mayor and Council hereby find and determine that the properties located within said District are presently served by the City's existing system of water service and that said District constitutes an area of land located outside of the corporate limits of the City but all of the property in said District is located within two miles of the corporate limits of the City of Wayne, Nebraska and within the City's jurisdictional territory and within the water service area of the City as such service area is now presently existing, that the City has authority to construct said improvements and the City shall levy special assessments for the cost of the improvements within the area included in the said District as provided by law, which assessments shall be recorded and become a lien on the property so assessed as provided by law.

Section 6. Objections to the creation of the District may be filed by property owners subject to the levy of special assessments on the basis of linear front footage of property abutting on the front lot line, there being no right of objection based on side lot line abutting a water line, and further based on (but not limited to) these finding:

Upon construction of the improvements, special assessments shall be levied on the basis of abutting front footage on front lot lines only - no special benefits shall be determined to accrue based on side lot lines abutting properties, provided however, that if a property is provided water service from a side yard abutment only, then such side yard abutting footage shall be subject to special assessment and no front yard assessment shall be levied. The basis for the levy of special assessments shall be that of the same basis on which objections to the creation of the District are founded.

The construction of the improvements is based in large measure on the availability of Federal Stimulus monies currently found to be available which monies are subject to terms of the Stimulus Funding program, current program conditions finding that 25% of costs shall consist of a forgivable zero percent interest rate loan and 75% of costs shall consist of a 3% per annum loan. Such Stimulus Funds encourage the construction of the improvement to the benefit of owners of abutting property within the District—in the event that Stimulus Funding should become not available or the program terms changed from current interpretations and approvals, then special assessments shall be amended at the time of levy of special assessments to enable the City to recover project costs anticipated to be funded by Stimulus monies from upward adjustments to the special assessments levied against benefiting properties—provided further that benefits levied shall in no case exceed the project cost incurred by the City for construction of the said improvements.

PASSED AND APPROVED this 2ND day of June 2009.

ATTEST:

Mayor

City Clerk