

R E S O L U T I O N

A RESOLUTION DECLARING THE NECESSITY FOR, AND ECONOMIC FEASIBILITY OF, CREATING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1407.

WHEREAS, the City Council of the City of Las Vegas (the "City Council" and the "City", respectively, herein), in the County of Clark and State of Nevada, has taken the requisite legal action that is preliminary to the creation of the proposed "City of Las Vegas, Nevada, Special Improvement District No. 1407" (the "District" herein), consisting of nine (9) separate and distinct assessment units, for the purposes of providing for the grading, gravelling, macadamizing, paving, draining and otherwise improving of those certain streets, and portions thereof, that are identified with particularity in the notice of hearing (the "Notice of Hearing" herein) that is provided for in Section 4 of the Provisional Order Resolution that was duly passed, adopted and approved on the 18th day of August, 1993, as ASSESSMENT UNIT NO. I, the installation of curbs and gutters along those certain streets, and portions thereof, that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. II, the installation of sidewalks along those certain streets, and portions thereof, that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. III, the installation of a street lighting system and all facilities that are incidental thereto along that certain street, and portions thereof, that is identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. IV, the installation



of residential driveway approaches along those certain streets, and portions, that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. V, the installation of commercial driveway approaches along those certain streets, and portions, thereof that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. VI, the installation of sanitary sewer laterals along those certain streets, and portions thereof, that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. VII, the installation of potable water laterals along those certain streets, and portions thereof, that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. VIII and the installation of a sanitary sewer collection main along those certain streets, and portions thereof, that are identified with particularity in the Notice of Hearing as ASSESSMENT UNIT NO. IX (the "Project" herein), and of defraying the entire cost and expense thereof by special assessments against the assessable lots and parcels of property within each assessment unit of the District according to the benefits that will be derived from such improvements by the respective lots and parcels that are proposed to be so assessed, all in accordance with the provisions of Chapter 271 of the Nevada Revised Statutes ("Chapter 271" herein) that provide therefor; and

WHEREAS, the City Engineer of the City (the "City Engineer" herein) has presented to the City Council the following documents:

(A) An accurate estimate of the total cost of the

Project, including in such estimate an estimate of the expenses that are anticipated will be incidental and attributable thereto;

(B) Full and detailed plans and specifications for the construction of the Project, together with construction drawings that show typical sections of the improvements that are proposed to be included in the Project;

(C) A map and assessment plat that shows the location of each portion of the Project and the property that is proposed to be assessed; and

(D) The City Engineer's report with respect to benefits in which the City Engineer sets forth his conclusions concerning the benefits that will be derived by the respective assessable lots and parcels of property in the District from such improvements and the proper method of assessment, which said report with respect to benefits was accepted by the City Council at its meeting that was held on Wednesday, the 18th day of August, 1993; and

WHEREAS, pursuant to Chapter 271, the City Council, in the Resolution, declared its determination to create the District for the purpose of constructing and installing such improvements within the respective assessment units thereof, described the improvements that are proposed to be constructed and installed in the respective units, stated that the entire cost and expense thereof shall be paid by special assessments and that such assessments are to be levied according to the benefits that will be derived by the respective assessable lots and parcels of

property from such improvements, designated, by apt description, the District, including the lots and parcels that are to be so assessed and described with particularity the location at which the improvement that is proposed to be constructed and installed within each assessment unit of the District is to be so constructed and installed; and

WHEREAS, pursuant to the Resolution, the City Council directed the City Clerk of the City (the "City Clerk" herein) to give notice that the estimates of the cost and expense of constructing and installing the Project and the plats and diagrams in connection therewith had theretofore been filed in her office and of the time, date and place of a public hearing as to the propriety and advisability of constructing and installing the Project, and the City Clerk has, by way of the Notice of Hearing, given the required notice of such filing and public hearing in the manner and for the period that is specified in Chapter 271 and in accordance with the directions that are contained in the Resolution; and

WHEREAS, the manner of giving the Notice of Hearing by mail, publication and posting was reasonably calculated to inform all of the parties who are interested in the District of the proceedings that concern the same which might directly and adversely affect their legally protected interests; and

WHEREAS, at such public hearing, which was held on the 15th day of September, 1993, five written protests or objections, representing those certain lots or parcels of property that are identified by the Clark County, Nevada, County Assessor's parcel

numbers as Parcels 163-03-301-001, 163-03-401-006, 163-04-803-005, 163-04-803-006 and 163-04-803-007 ("Parcel 163-03-301-001", "Parcel 163-03-401-006", "Parcel 163-04-803-005", "Parcel 163-04-803-006" and "Parcel 163-04-803-007", respectively, herein), and four oral protests or objections (which also represented Parcel 163-03-301-001, Parcel 163-04-803-005, Parcel 163-04-803-006 and Parcel 163-04-803-007), representing, in the aggregate, 2,020 front feet or lineal feet, as the case may be, or varying from approximately 17% to approximately 19%, depending upon the assessment unit that is under consideration, of the 10,600 front feet or lineal feet, as the case may be, to (depending upon the assessment unit) 11,806 front feet or lineal feet, as the case may be, that will abut, and will be benefited by, the proposed improvements in ASSESSMENT UNIT NO. I to ASSESSMENT UNIT NO. IV, inclusive, and ASSESSMENT UNIT NO. IX, \$6,381.86, or approximately 13.3%, of the estimated \$47,852.00 that will be assessed against the assessable lots and parcels of property that will be served by the sanitary sewer laterals in ASSESSMENT UNIT NO. VII and \$3,166.24, or approximately 6.5%, of the estimated \$48,984.00 that will be assessed against the assessable lots and parcels of property that will be served by the potable water laterals in ASSESSMENT UNIT NO. VIII, were presented to the creation of the District and to the construction and installation, in the several assessment units thereof, of the improvements that are proposed to be constructed and installed in the respective assessment units; and

WHEREAS, one of the bases of the protest and objection that was presented with respect to Parcel 163-03-301-001 contests the right of the City to assess against said Parcel the costs that the City incurs in acquiring thereacross a portion of the rights-of-way that are required for the construction and installation of the improvements in Ducharme Avenue, Alta Drive, Oakey Boulevard, O'Bannon Avenue, El Parque Avenue and Via Olivera Avenue; and

WHEREAS, the City Council has reviewed all of the documents that are described above, has found the same, in all respects, to be satisfactory and has considered each of such objections;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Las Vegas, Nevada, at this regular meeting thereof that is being held on this 20th day of October, 1993, that the City Council has found, determined and declared, and does hereby find, determine and declare, that:

SECTION 1. That the written and oral protests and objections that were presented on behalf of Parcel 163-03-301-001, Parcel 163-04-803-005, Parcel 163-04-803-006 and Parcel 163-04-803-007 and the written protest and objection that was presented on behalf of Parcel 163-03-401-006 to the creation of the District and to the construction and installation of the proposed improvements in the respective assessment units thereof, representing, in the aggregate, less than one-half of the frontage that is proposed to be assessed for the improvements that are proposed to be constructed and installed in ASSESSMENT UNIT NO. I, ASSESSMENT UNIT NO. IV and ASSESSMENT UNIT NO. IX,

representing, in the aggregate, less than one-half of the lineal footage that is proposed to be assessed for improvements that are proposed to be constructed and installed in ASSESSMENT UNIT NO. II and ASSESSMENT UNIT NO. III and representing lots or parcels of property that are proposed to be assessed, in the aggregate, for less than one-half of the costs and expenses of installing the sanitary sewer laterals and the potable water laterals that are proposed to be installed in ASSESSMENT UNIT NO. VII and ASSESSMENT UNIT NO. VIII, respectively, are without merit and that each of such protests and objections should be, and they hereby are, overruled and finally passed upon by the City Council.

SECTION 2. In further reference to the protest and objection that was presented with respect to Parcel 163-03-301-001:

(A) Section 271.070 of the Nevada Revised Statutes ("NRS" herein) defines the term "cost of the project" as:

[A]ll or any part designated by the governing body of the cost of any facilities, project, or interest therein, being acquired, which cost, at the option of the governing body may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, ... the costs of appraising, ... the taking of options, ... the filing or recordation of instruments, ... and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the governing body.

(Emphasis added), and NRS 271.350 authorizes the City Council to credit against the assessment that is levied upon any lot or parcel of property with respect to which improvements that conform to the general plan for a proposed project have already

been constructed or installed, and the City adopts the same as a part of such project, an amount that is equal to the value of such improvements that are so adopted. By way of illustration, pursuant to NRS 271.350, if a lot or parcel of property that is proposed to be assessed in a curb and gutter project has a curb and gutter that conforms to the general plan for such project already in place, the City Council may adopt such in-place curb and gutter as a part of such project, grant the owner of such lot or parcel a credit against the assessment for such project that would otherwise be levied upon such lot or parcel, in an amount that is equal to the value of such in-place curb and gutter, and apportion and assess the full cost of constructing and installing the proposed curbs and gutters equitably among and upon all of the lots and parcels of property that do not have adequate curbs and gutters already in place.

(B) Similarly, if the construction and installation of the proposed improvements in a special improvement district necessitates the acquisition or use, or both, of rights-of-way across the several lots and parcels of property that are proposed to be assessed therefor, and the portion of such rights-of-way that is required across a lot or parcel of property that is proposed to be assessed therein has been dedicated or is otherwise available for use by the City without any compensation to the owner thereof, such parcel should be granted a credit against the assessment that would otherwise be levied thereupon, in an amount that is equal to the value of the

portion of such rights-of-way that has been so dedicated or is otherwise available for use by the City, and the full cost of acquiring the remaining portions of the required rights-of-way should be apportioned and assessed equitably among and upon all of the lots and parcels of property with respect to which their respective portions of such rights-of-way have not been dedicated or are not otherwise available for use by the City without any compensation to the owners thereof.

(C) Accordingly, the City Council has further found, determined and declared, and does hereby further find, determine and declare, that (i) the construction and installation of the improvements in Ducharme Avenue, Alta Drive, Oakey Boulevard, O'Bannon Avenue, El Parque Avenue and Via Olivera Avenue requires the acquisition or use, or both, of rights-of-way across the several lots and parcels of property that are proposed to be assessed in the District, (ii) the costs and expenses that are incurred by the City in the acquisition of such rights-of-way are incidental costs that pertain to the Project, the inclusion of which in the cost of the Project is hereby designated as being necessary and desirable, (iii) any lot or parcel of property that is proposed to be assessed in the District and with respect to which the portion of such rights-of-way that is required thereacross has been dedicated or is otherwise available for use by the City without any compensation to the owner thereof, has heretofore, in the preliminary assessment roll, been and shall, in the final assessment roll, be granted a credit against the assessment that would otherwise

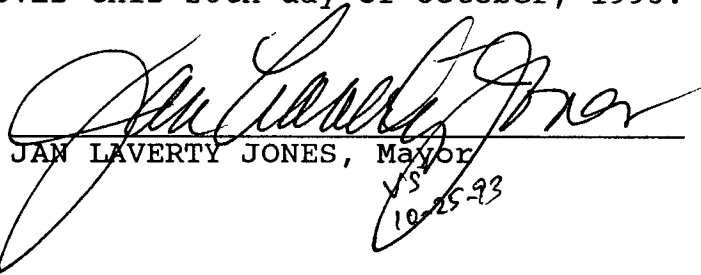
have been levied thereupon, in an amount that is equal to the value of the portion of such rights-of-way that has been so dedicated or is otherwise available for use by the City, (iv) the full cost of acquiring the remaining portions of the required rights-of-way has heretofore been, in the preliminary assessment roll, and shall, in the final assessment roll, be apportioned and assessed equitably among and upon all of the lots and parcels or property with respect to which their respective portions of such rights-of-way have not been dedicated or are not otherwise available for use by the City without any compensation to the owners thereof, and (v) the portion of the protest and objection that was presented with respect to Parcel 163-03-301-001 that contests the right of the City to assess against said Parcel the costs that the City incurs in acquiring thereacross the portion of such rights-of-way that is required therefrom is also without merit and, for this additional reason, such protest and objection should be, and it hereby is, overruled and finally passed upon by the City Council.

SECTION 3. The estimated net cost to the City of the Project, including all of the necessary expenses that either have been or will be incurred in connection with the District, is \$1,483,450.00 and, based upon all of the foregoing:

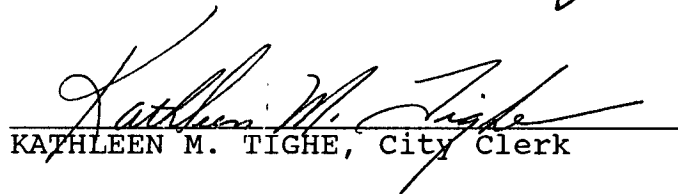
(A) The public convenience and necessity require the creation of Special Improvement District No. 1407; and

(B) The creation of Special Improvement District No. 1407 is economically sound and feasible.

PASSED, ADOPTED AND APPROVED this 20th day of October, 1993.


JAN LAVERTY JONES, Mayor
VS
10-25-93

ATTEST:


KATHLEEN M. TIGHE, City Clerk



**SPECIALIZING IN
ACREAGE AND
INCOME PROPERTY**

**BARTSAS
REALTY
INC.**

**TELEPHONES:
Office: (702) 735-6377
Fax: (702) 735-6378**

528 EAST OAKLEY BLVD.

LAS VEGAS, NEVADA 89104

September 9, 1993

LAS VEGAS CITY COUNCIL
City Clerk
400 East Stewart Ave.
Las Vegas, NV 89101

Re: Protest to SID 1407

RECEIVED
CITY CLERK
SEP 10 10 43 AM '93

I, Mary Bartsas, the undersigned and owner of the parcel of land located at the southeast corner of Buffalo Drive and Oakley Blvd. hereby protest the formation of SID 1407 for the following reasons:

A) The making of such improvements is improper or ill advised.

I will not be developing this property in the foreseeable future and the parking lane, curb and gutter, sidewalk, street lights, and utility services are not needed for the four travel lanes required for the traffic in this area.

B) The cost of the improvements are excessive.

The projected cost of improvements as shown on the information provided by City Staff is excessive in relation to other Assessment districts by the City of Las Vegas.

C) The amount of the estimated costs that is proposed to be assessed against the parcel is excessive.

The City Staff proposes to acquire land from this parcel by eminent domain if necessary and then charge this cost back to this individual parcel in the Assessment District. The result of this charge back in the Assessment District is a taking of private property for public use without compensation to the property owner.

The Notice of Hearing on the Provisional Order provides in Unit I for the cost of acquiring the necessary right of way. However, NRS 271.265 provides that the cost be assessed on an equal basis on the frontage of each parcel as it relates to all parcels in the district. The cost of this right of way must be spread among all owners and not to one specific parcel.

The proposed Assessment District will assess the full frontage on this corner lot on both the major street and the side street rather than the full frontage on the major street and one-half of the frontage on the side street, as the City has done on previous Assessment Districts.

The entire width of the side streets are being assessed to the properties rather than only the parking lane, curb and gutter, sidewalk, and street lights as is assessed on the major street.

The acquisition of the right of way from this parcel will reduce the parcel size by 25%. A 25% reduction in appraised value as established by the Clark County Assessor will lower the value of the parcel to below the proposed cost of the assessment in the proposed district.

I have additional concerns regarding the information on which was not available at the September 9 informational meeting and there is insufficient time available for additional research between the public informational meeting and the time required for filing this protest.



Mary Bartsas

cc: Nancy Payan

Receipt of letter acknowledged

City Clerk

Date