

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

FILED

ORDINANCE NO. 7

APR 13 2 43 PM 1977

AN ORDINANCE DETERMINING THE PROCEDURE  
TO BE FOLLOWED IN MAKING LOCAL ASSESSMENTS  
FOR BENEFITS FROM A LOCAL IMPROVEMENT,  
TO-WIT: AN UNDERGROUND ASSESSMENT DISTRICT;  
AND DECLARING AN EMERGENCY.

JUNE WAGNER  
COUNTY CLERK  
DEPUTY *dw*

THE BOARD OF COUNTY COMMISSIONERS, TILLAMOOK COUNTY,  
OREGON, ORDAINS AS FOLLOWS:

SECTION I. Whenever a petition has been filed for the  
formation of an underground assessment district pursuant to the  
provisions of ORS 758.210 to 758.270 for the purpose of convert-  
ing an overhead power or communication line to an underground  
electric or communication facilities system, and

The petition filed with the County Clerk has been re-  
ceived and the signatures on the petition have been verified and  
the County Clerk has executed a certificate of sufficiency, and

Whenever said petition and certificate has been presented  
to the Board of County Commissioners and the Board of County Com-  
missioners has reviewed the same, and found the same to be in proper  
order then the procedure to be followed in making the local assess-  
ments for the benefits for the improvement upon the lots or prop-  
erty which will be benefited shall be as follows:

1. The Board of County Commissioners shall require from  
an approved surveyor a statement that said underground improvement  
is located on public property or if on private property that a per-  
petual easement for said underground improvement has been given  
to the public or to the utility. The Surveyor shall cause the  
statement to be filed with the County Clerk.

2. The Board of County Commissioners shall require from an approved engineer, plans specifications, and estimates therefor and the engineer shall furnish as part of said estimates a statement of probable total cost of said underground improvement. Said engineer shall cause the same to be filed with the County Clerk.

3. If the Board of County Commissioners shall find such plans, specifications and estimates to be satisfactory and that the improvement will be located on public property it shall approve the same, and shall determine the boundaries of the district and the lots which have been benefited by all or part thereof, and to be assessed by such improvement and designate it as Local Underground Improvement District No. \_\_\_\_\_. The action of the Board of County Commissioners in declaring its intention to make said underground improvement and the lots to be benefited thereby, approving and adopting the plans, specifications, estimates and location, determining the boundaries of the Underground Improvement District, may all be done at the same meeting of the Board of County Commissioners and by one and the same Resolution upon passage of such Resolution by the Board of County Commissioners, the Secretary of the Board shall give at least 10 days written notice to owners of property within the proposed district in which the local improvement is contemplated which notice shall be by posting, newspaper publication or by mail, or any combination of such methods. Such notice shall specify the time and place when the Board of County Commissioners will hear and consider objections and remonstrances to the proposed improvement by any parties aggrieved thereby. If

after notice is given as in this section provided, objections are received by the Board of County Commissioners signed by more than 50% of the landowners within the proposed assessment district who own more than 50% of the land, the Board shall declare the proposed conversion abandoned because of objections and no new proceeding for the conversion shall be undertaken within a period of one year thereafter.

4. Prior to making its declaration of intention to make said underground improvement, said Board of County Commissioners may require from petitioners a deposit of money in an amount sufficient to cover the engineering costs, survey and costs incident to service of notices, inspections, legal costs for preparation of contracts; and such other costs as may be applicable.

5. If the Board of County Commissioners determines that the local improvement shall be made, and the cost thereof is determined either on the basis of a contract award or county departmental cost, or after the work is done and the cost thereof has actually been determined, the Board of County Commissioners shall determine whether the property benefited shall bear all or a portion of the cost.

Section II. (1) When the Board of County Commissioners determines that a conversion shall be made, it may contract with the utilities supplying electric or communication service within the underground assessment district to perform the conversion. A contract shall provide:

(a) A description of the electric and communication facilities to be converted;

(b) That plans and specifications for such conversion shall be supplied or approved by the affected utility;

(c) The time and manner in which underground electric and communication facilities will be installed and overhead electric and communication facilities will be removed;

(d) The estimated cost of converting overhead facilities located on public lands and right of way to underground facilities;

(e) The estimated cost of converting related utility service facilities located on privately owned lots and parcels;

(f) The time and manner of making payments and the source of funds for such payments; and

(g) That upon completion of the work of conversion, the utility performing the conversion shall have legal title to the electric and/or communication facilities, which shall thereafter constitute a part of a system of the utility and be used, operated, maintained and managed by it as part of its system.

(2) Upon approval and execution of the conversion contracts by the utilities and Board of County Commissioners, the Board of County Commissioners shall direct the utilities owning overhead electric or communication facilities within the district to convert such facilities as required by the contract.

SECTION III. Upon completion of the conversion of the overhead electric or communication facilities on public lands and right of way to underground, the affected utility shall file a verified statement of the costs of such conversion with the Board of County Commissioners. The Board of County Commissioners shall adopt an ordinance assessing the whole or any part of the cost of the conversion against the real property in the underground assessment district specifically benefited and shall promptly thereafter mail to each landowner a statement of the amount of such costs assessed to his property. With the statement the Board of County Commissioners shall mail to each landowner a notice stating that:

(1) Service from the underground facilities is available;

(2) The landowner has 90 days after the date of the mailing of such notice to convert all overhead electric or communication facilities providing service to any structure or improvement located on his lot or parcel to underground service facilities; and

(3) After the 90-day period following the date of the mailing of the notice, the Board of County Commissioners will order the utilities to disconnect and remove all overhead electric and communication facilities providing the service to any structure or improvement within the area.

SECTION IV. A person designated by the Board of County Commissioners shall prepare the proposed assessment to the respective lots or property within the assessment district and file it in

in the Office of the County Clerk. Notice of such proposed assessment shall be mailed by certified mail or personally delivered to the owner of each lot or parcel of property proposed to be assessed, which notice shall state the amounts of assessment proposed on that property and shall fix a date by which time objections shall be filed with the County Clerk. Any such objection shall state the grounds thereof. The Board of County Commissioners shall consider such objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessment.

The ordinance spreading the assessments shall become a lien upon the property assessed from and after the passage of the ordinance and filing the same in the office of the County Clerk, and the Clerk delivering a copy thereof to the Assessor and Tax Collector.

SECTION V. (1) Any conversion of electric or communication service facilities, including service connections, located on a privately owned lot or parcel shall be made at the expense of the landowner by the utility owning the facility. The conversion shall be made in accordance with applicable safety rules, codes, regulations, tariffs or ordinances. The utility shall not be required to convert service lines on property, other than public lands and rights of way, until the landowner furnishes to the utility a permit or easement authorizing the utility and its employees, agents, and contactors to enter upon real property of the landowner for the purpose of performing conversion work thereon.

(2) Upon completion of the conversion of overhead electric or communication service facilities on privately owned lots or parcels within a district, the utility shall file with the Board of County Commissioners a verified statement of the costs of the conversion of such service facilities of each landowner in the district. Promptly thereafter the Board of County Commissioners shall mail to each landowner a copy of such verified statement.

SECTION VI. If the owner of any structure or improvement served from the overhead electric or communication service facilities within an underground assessment district does not grant the utility a permit or easement referred to in SECTION V above or if such an owner fails to convert to underground service facilities within 90 days after the mailing to him of the notice provided by SECTION III the public authority shall order the utility to complete the conversion and to disconnect and remove all overhead facilities, including service facilities, providing service to such structure or improvement.

SECTION VII. Whenever an assessment for converting an overhead power or communication facilities to an underground system is or shall be defective, insufficient or inadequate, or the cost is greater than originally estimated and for which an assessment has been made or has been or shall be hereafter set aside, annulled, declared or rendered void or its enforcement refused by any court of this state or any court having jurisdiction thereof, whether directly or by virtue of and decision of such court or when the Board of County Commissioners shall be in doubt as to the validity

of such assessment or any part thereof the Board of County Commissioners may by resolution make a new assessment or reassessment upon the lots or blocks or parcels of land which have been benefited to the extent of their respective and proportionate shares of the full value thereof. Such reassessment shall be based upon the special and peculiar benefit of such improvement to the respective parcels of land assessed at the time of its original making.

Proposed assessments upon the respective lots or parcels within the assessment district for the proportionate share of the deficit shall be made, and notices shall be sent; opportunity for objections shall be given; such objections shall be considered; and determination of the assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment; and the deficit assessment spread by ordinance. If assessments have been made on the basis of estimated cost, and upon completion the cost is found to be less than the estimated cost, provision shall be made for refund of the excess or overplus.

SECTION VIII. Notwithstanding any of the provisions of this ordinance, owners of any property against which an assessment is made may seek a review thereof pursuant to the provisions of ORS 34.010 to 34.100.

SECTION IX. In the event the owner or other person charged with the payment of the assessment for the underground improvement shall fail to pay the same within the time provided for in this ordinance the method of enforcing liens and collecting

assessments shall be as provided in ORS 235.505 to 223.650 inclusive and said Oregon Revised Statutes aforesaid shall be and are a part of this ordinance to the same extent as if fully set forth herein.

SECTION X. Whenever a notice is required to be sent to the owner of the lot or parcel affected by a proposed assessment, such notice shall be addressed to the owner or his agent. If the address of the owner or of the owner's agent is unknown the Board of County Commissioners shall cause to be mailed the notice addressed to the owner or his agent at the area where such property is located. Any mistake, error, or omission or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the area where such property is located.

SECTION XI. To the extent that the contract between the utility and the Board of County Commissioners provides that all or any part of the conversion work shall be performed by the utility, any statute or ordinance provision requiring competitive bidding and the award of a contract to the lowest responsible bidder does not apply.

SECTION XII. Once converted, no overhead electric or communication facilities shall be installed, maintained or operated

in any underground assessment district except as authorized by this ordinance.

SECTION XIII. This ordinance is supplemental and cumulative of existing rights, laws, ordinances and franchises and shall not abrogate or modify any franchise granted to a utility by any local government or abrogate or modify in any way existing rights, laws, charters or ordinances of any local government.

SECTION XIV. DEFINITIONS:

a. "Underground Assessment District" or "District" means electric or communication facilities located below the surface of the ground exclusive of those facilities such as substations, transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets and similar facilities which normally are above the surface in areas where utility facilities are underground in accordance with the standard underground practices;

b. "Utility" means any electric or communication utility engaged in furnishing electric service, community antenna television service or communication service to consumers;

c. "Owner" means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the County Assessor.

d. "Lot" means lot, block, tract or parcel of land;

f. "Board" and/or "Board of County Commissioners" means Board of County Commissioners of Tillamook County, Oregon.

SECTION XV. It being necessary that the terms and provisions of this ordinance become effective immediately to prevent unnecessary costs associated with the installation of temporary overhead service an emergency is hereby declared to exist and this ordinance shall become effective upon its adoption by the Board of County Commissioners for Tillamook County, Oregon.

ENACTED this 13 day of April, 1977.

BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON



Chas D Bailey  
Chairman

F. E. Knight  
Commissioner

Granville Simmons  
Commissioner

|        | READING                        | PUBLIC HEARING   |
|--------|--------------------------------|--|
| First  | <u>11:05 a.m. - in full</u>    | <u>April 13, 1977</u>                                  |
| Second | <u>11:25 a.m. - title only</u> | <u>April 13, 1977</u>                                  |
| Third  | <u>12:00 p.m. - title only</u> | <u>April 13, 1977</u>                                  |
| Other  | _____                          | _____  |
| Vote   | Aye                            | <u>Chas. D. Bailey, Granville Simmons, F.E. Knight</u> |
|        | Nay                            | _____  |
|        | Absent                         | _____  |

\_\_\_\_\_  
Tillamook County Clerk

Rina Hall  
Recording Secretary for the  
Board of County Commissioners

DATE: April 13, 1977