

Local Improvements

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LOCAL IMPROVEMENTS

The complexities engaged in the initiation of local improvements in Wisconsin cities have been the product of the various and diversified methods employed in individual localities in accordance with particular conditions prevailing.

State laws, charter provisions and city ordinances set forth certain rules and procedures by which local improvements shall be conducted, but definite approach at standardization has been defeated by the peculiar circumstances governing the city affected.

The problem presented in determining the distinction between local and general improvements has met reasonable solution, for the prevailing conception of a local improvement adheres rather closely to a literal interpretation of the word. The opening of new streets, construction of permanent or first pavements, sewers, water and drainage, curbing and sidewalks, breakwater construction benefiting abutting property owners, current expenses as sprinkling, oiling streets, ornamental lighting of streets, snow and refuse removal, cutting weeds, and scavenger work are universally recognized as improvements locally beneficial. The acquisition of property for parks, playground, school or boulevard purposes is variously considered as a local improvement or as a municipal project. The extent to which the district enjoying the improvement will benefit is the determining factor in the distinction between local and general improvements. Enhancement of immediate property values in the region improved is the basis of such determination, and offers a means of equitable adjustment of expenditures incurred.

The General Charter Law of the State of Wisconsin, Chapter 62, Laws of 1921, in its application to cities of the second, third and fourth classes, is the basic authority for the development and maintenance of local improvements. Its lenient provisions are productive of the various methods of conducting improvements employed by cities of the different classes. Milwaukee, being the only city of the first class in Wisconsin, and governed by special charter, is not affected by the General Charter Law, unless it elects by ordinance to accept its provisions. Sect. 62.03. It is of interest to know that the charter enjoyed by Milwaukee embodies provisions which permit virtual home rule, and at times the efforts made in this direction have reached a stage where curtailment has been necessitated. The purpose of this article

is to treat the procedure followed by cities of the second, third, and fourth classes in making improvements of a local nature as controlled and regulated by the General Charter Law.

A local improvement originates with the Board of Public Works. It is the recommendation of this body that starts the movement. Different rules apply for the organization of this board, varying in accordance with the population of the cities. In cities of the second class the commissioners are appointed by the mayor and confirmed by the council. In all other cities the board consists of the city attorney, city comptroller, and the city engineer, unless the council by a two-thirds vote determines to appoint other officers. By a like vote the board may be dispensed with, and its duties performed by the council or a committee thereof, or by such officers or boards as the council may designate. Sect. 62.14-1. It is the general duty of the Board of Public Works, under the direction of the council, to superintend all public works, and keep the streets, alleys, sewers and public places in repair. Sect. 62.14-6.

With the necessity of a local improvement apparent, and a recommendation duly made and approved, the Board of Public Works prepares plans and specifications containing a description of the work, the materials to be used, and such matters as will give an intelligent idea of the work required, and files them with the city clerk for inspection of bidders. A form of contract, with bond and sureties required, accompanies the plans and specifications, copies of which are available to all persons desiring to bid for the work. Sect. 62.15-2. All public work the estimated cost of which exceeds \$500.00 is let by contract to the lowest responsible bidder. Work entailing an expenditure not in excess of this sum is let as the council may direct. The privilege of doing the work directly without inviting bids is reserved to the council, and it may so provide by ordinance after a three-fourths vote of the members elect. Sect. 62.15-1.

Prospective bidders are informed of the contemplated improvement by an advertisement in the official newspaper. Consideration of bids is dependent upon their being properly made by a responsible bidder accompanied by the required contract and bond with sureties in accordance with the form furnished by the city clerk. Sect. 62.15-4. Certified checks equal to five per cent of the bid, and a provision in the contract for the retention by the city of twenty per cent of the estimates made from time to time by the

Board of Public Works are accepted in place of sureties. Sect. 62.15-4. All bids are examined by the Board of Public Works, and the power to reject all or any is vested in this body. Sect. 62.15-5. If it appears that none of the bids are fair the council may by a two-thirds vote direct the work to be done under the supervision of the Board of Public Works. Sect. 61.54-2-3. Should there be incompetent bidders, the board prepares a schedule of the bids received, and recommends the acceptance of the offer made by the lowest responsible bidder. The council either directs that the work be let to such bidder or requests a readvertisement. Sect. 62.17-6. Acceptance by the council is concluded by the signature of the proper officers, these being the mayor, city clerk and comptroller unless otherwise provided by ordinance or resolution. Sect. 62.15-12.

Competitive bidding guided by the plans and specifications drawn up by proper city officers is the means of choosing the kind of article, materials or process to be used in doing the work. The bid accepted is that of the lowest responsible bidder on articles, processes and materials which can be used in accomplishing the same general purpose. Sect. 62.15-8. Contractors doing the work may be required to keep the work in repair for a period not to exceed five years. Sect. 62.15-9. As the work under the contract progresses the Board of Public Works may from time to time at its discretion, grant to the contractor an estimate of the amount and proportionate value of the work done, withholding in all cases twenty per cent of said estimate which shall entitle the contractor to receive the amount thereof less twenty per cent from the proper fund. If the contractor fails to complete the work within the required time the Board of Public Works is authorized to take charge and finish the work at the expense of the contractor and his sureties. Sect. 62.15-10.

For convenience in determining the distribution of the cost of the various local improvements, they may be divided into two classes, major and minor. In the first class it will be practical to include the opening of new streets, construction of permanent and first pavements, sewers, water and drainage, and curbing and sidewalks. The second consists of the types usually treated as current expenses.

OPENING OF NEW STREETS AND CONSTRUCTION OF PAVEMENTS

Section 62.15-1-8

Power to direct the opening and paving of new streets, and to change those already existing is vested in the city council. Sect. 62.16-1. The expense of such work or improvement may be paid in whole or in part by the city or the property owners to be benefited thereby as the council shall direct, but in no case shall the amount so assessed to any parcel of real estate exceed the benefits accruing thereto by such improvement. Responsibility of the city, where the cost of improvement is partially paid by abutting property owners, begins at the point where the cost of improvement exceeds the benefits derived. A two-thirds vote by the council is necessary to authorize an improvement if its cost exceeds \$500.00, unless one-half of the abutting property owners petition the council to improve the street in question. Sect. 62.16-4. Crosswalks at the intersection of streets and across public grounds are constructed at the expense of the city and paid as are the expenses of maintenance of streets improved in compliance with the orders of the city council out of the general fund. Sect. 62.16-3. Where the work extends to establishing a grade for sidewalks later to be constructed, the expense of making such grade shall be borne as a part of the improvement and apportioned accordingly. Sect. 62.16-4-C.

When the city council has decided upon a street improvement, the payment of which will be borne by city and property owners according to the benefits accruing to the real estate owners, its action is delayed until the Board of Public Works has made a report of benefits and damages resulting to owners of the premises affected. This report is available at the office of the Board of Public Works to persons interested and their objections are heard and considered. Property owners receive notice through the official newspaper and by posters displayed in the blocks affected. Final determination by the council of the amount to be paid by the property owners is made after the time allowed for the hearing and consideration of objections has expired. Landowners are permitted to inspect the report of the final determination of the council and if they feel that their share of the expense is excessive may appeal to the circuit court of their county for redress. This appeal constitutes the landowners' only remedy for a grievance caused by the council's confirmation of the report of the Board of Public Works.

The installation of service pipes for water, heat, sewer, or gas service, where such pipes have previously been laid or are to be laid, accompanies the improvement, and the cost of such service pipe, from the mains in the street to the curb on either side or both, is charged to the abutting property owners according to the expense incurred in front of each lot. Such expense is entered in the tax-roll as a special tax and collected from the owners like other taxes on real estate.

SIDEWALKS

Section 62.17-1-7 Inclusive

The cost of constructing sidewalks is paid by abutting property owners. Repairs, unless assumed by the city, replacement and removal are likewise the charge of the owners, who are expected to maintain sidewalks in compliance with the city council's order describing standard sidewalks. It is the duty of the street commissioner to notify property owners if they fail to recognize the necessity of such sidewalks. Upon default, which shall be failure to comply within twenty days from date of notice, in cities of the second and third classes and ten days in cities of the fourth class where notification is made only semi-annually, the work will be done by the city at the expense of the owner. In the event of this action the work will be let to a contractor, who shall be the lowest responsible bidder, subject to the supervision of the Board of Public Works. Upon completion the board will submit a report of the aggregate cost to the city comptroller, and included in his statement to the city clerk who will charge it in the tax-roll to the property owner as a special tax to be paid like all other taxes upon real estate.

Where cities of the second and third classes desire to share the cost of repairs they may assume one-half of the expense if the council so determines. In cities of the fourth class, the voters may decide at a special election by a majority vote to pay one-half of the general cost of sidewalk improvement out of the general fund. The entire cost of constructing crosswalks and alley intersections and walks across public grounds is paid by the city.

SEWERS

Section 62.18-1-18 Inclusive

The power of installing sewerage systems is vested in cities of all classes when the particular needs of the city necessitate such improvement. A number of plans are adopted in distributing the expense. Most popular among these is the assessment method applied according to the frontage of the property owners benefiting. Allotment of the expense according to sewerage districts, payment by the city out of a fund originated for sewerage purposes, and by a combination of the methods mentioned are the other principal plans followed.

Upon direction, after passage of a resolution by the city council, the Board of Public Works draws up detailed plans and specifications of a system designed to meet the particular needs of the city or the district to be sewerred. The usual notification, to persons interested, is made by a notice stating the date and the place where objections will be heard, in the official newspaper. After due consideration of the objections rendered the plans and specifications are submitted to the city council which body may reject, accept, or change the survey as it thinks proper.

With the plans and specifications as a basis, the Board of Public Works, where cities decide to meet the expense by assessments upon real estate frontage, makes assessments according to the linear foot method at an even rate not exceeding \$2.00 or less than twenty-five cents per linear foot on each side of the street of the whole frontage of each lot or part of lots so abutting. Deductions are made for corner lots as the Board of Public Works thinks reasonable and just according to the circumstances of each case. Whenever property is so situated that the front foot rule can be applied only with difficulty and uncertainty the share of the cost is divided according to the proportion thought reasonable by the board. The cost in excess of the linear foot assessment: i. e., of manholes, lampholes, flushtanks, and of temporary work in connection with the construction of the sewers is assessed to districts, as divided by the Board of Public Works, and such cost proportioned according to benefits accruing to abutting real estate. The plan of assessment is likewise followed in distributing the cost of intercepting sewers, force mains and pumping stations, if the city so decides. The schedule of assessments as applied along with a statement of the amount to be paid by the city at

large shall be available for examination of property owners at the office of the Board of Public Works. A notice for public hearing at which objections by property owners will be heard precedes the submission of the report to the city council for approval. Upon approval the contract will be let to the lowest responsible bidder who shall conduct the work under the supervision of the Board of Public Works.

Sewer service laterals where deemed necessary by the Board of Public Works shall be constructed, and the cost assessed to the benefiting property owners, but such cost shall not be included in the estimate of the cost of the general sewerage system. The expense of construction of separate house sewers extending to the service laterals is paid by the abutting property. In other words the owners stand the entire cost of service laterals and house sewers. Laterals and house sewers continue to be built after the general system of sewerage has been completed and their benefits are spent upon distinct owners. They are usually constructed by contractors and paid for by certificates issued to the contractor for which the property owners will be charged.

Cities have the authority to levy special taxes for a period not exceeding five years, not to exceed one-fourth of one per cent per annum upon all property taxable for sewerage districts, if the voters so decide, and this money shall be used to defray the city's share of the expense. Drainage facilities for storm water are paid in part by funds raised by special taxation and in part by abutting property owners.

WATER SYSTEMS

Section 62.19-1-8 Inclusive

City water systems are installed in accordance with the general procedure adopted in constructing pavements and sewers. The plan of assessment on contiguous and benefiting property is followed; the assessments being limited to one-half of the cost of furnishing and laying a six-inch water main. Service laterals in their extent from the main in the street to the house are paid for by the real estate enjoying the service. These rules in substance govern procedure in installation of heat systems as well.

MINOR IMPROVEMENTS

Chief among the classifications denoted as minor improvements are street sprinkling, oiling of streets, ornamental lighting of streets, and the various other seasonal improvements conducted to meet sanitary requirements and to beautify the city.

The city council may order that streets be sprinkled or oiled and paid for in part or whole by either the city or abutting property owners. When the charge is made upon the property, the city officer supervising such work, shall keep an account of the expenses and they shall be included and collected as a tax in the next tax-roll upon the abutting property. The expense of ornamental lighting of streets is usually shared by the abutting property owners and the city; the enhancement of property values being taken into consideration, and the assessment included in the taxes on such property.

The removal of snow and ice, cutting weeds, and general scavenger work is a duty of the property owner, but upon failure to recognize such duty the Board of Public Works has authority to direct that it be done, and the cost incurred reported to the city comptroller and added to the taxes on the property as a special tax and collected at the time and in the manner as are all other taxes on real estate.

SPECIAL IMPROVEMENT BONDS

For the purpose of defraying temporary expenses of construction, and to meet accruing demands for payment, special improvement bonds, which are later retired by the proceeds collected from assessments, are issued. Such bonds are chargeable only to the real estate on which assessments have been levied for the improvement which the particular bond issue is floated to finance. The bonds are issued in compliance with certain rules, and each issue is treated separately by means of a special fund and devoted to an individual improvement. Considerable care is exercised in this phase of conducting local improvements. The power of the voting body is given recognition and authority to curtail abuse which might result in raising money in this manner. When properly regulated, bonds open a convenient way to immediate enjoyment of vital improvements, and in the initiation of improvements confined to a limited area are indispensable.

LYNN J. SCHELL, '24.

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