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(Published in *The Basehor Sentinel* on June 15, 2006)

ORDINANCE NO. 493

AN ORDINANCE OF THE CITY OF BASEHOR, KANSAS, LEVYING SPECIAL ASSESSMENT TAXES ON CERTAIN REAL PROPERTIES IN THE CITY FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF CERTAIN INTERNAL IMPROVEMENTS BENEFITING SUCH REAL PROPERTIES; PROVIDING FOR THE GIVING OF NOTICE OF SAID SPECIAL ASSESSMENT TAXES BY PUBLICATION AND MAILING; PROVIDING FOR THE COLLECTION OF SAID SPECIAL ASSESSMENT TAXES; MAKING CERTAIN FINDINGS CONCERNING THE SPECIAL ASSESSMENTS AND AMENDING ORDINANCE NO. 483 OF THE CITY.

WHEREAS, the city of Basehor, Kansas (the "City") has adopted Ordinance No. 483 authorizing the making of certain sanitary improvements (the "Sewer Project"), the creation of a separate taxing district within the City known as the 24/40 Sanitary Sewer District (the "District") to provide for the assessment of a portion of the costs of the Sewer Project to property in the District specially benefited by such improvements, all pursuant to K.S.A. 12-617 to 12-619 and Article 12, § 5 of the Constitution of the state of Kansas (collectively, the "Act"); and

WHEREAS, pursuant to Resolution No. 2005-12 of the City adopted on December 19, 2005, the City approved a proposed assessment roll, authorized that notice of such assessments and of a public hearing on the assessments be mailed to property owners in the District and published in the City's official newspaper; and

WHEREAS, on January 27, 2006 the governing body of the City opened a public hearing on the assessment roll, received comments from those attending the hearing, adjourned the public hearing to each subsequent meeting of the governing body held thereafter, and closed the public hearing on May 1, 2006; and

WHEREAS, based on information received at the public hearing, the advice of the City's attorneys and City engineer, the history of the formation of the District and other matters relating to the District and the Sewer Project as further described in a letter addressed to the Basehor City Council attached to this Ordinance as *Exhibit D*, the City has determined it necessary to amend Ordinance No. 483 to: (a) reduce the size of the District, (b) increase the amount of the Sewer Project cost allocated to the City at large, (c) decrease the amount of the Sewer Project costs levied as special assessments in the District, (d) make other findings with respect to such amendments, and (e) to provide for a delay of the collection assessments levied on a certain undeveloped parcels in the District until such parcels develop and/or connect to the District improvements.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

SECTION 1. Amendment of Ordinance No. 483. Ordinance No. 483 of the City, passed on November 10, 2005 and published on November 17, 2005 is amended as follows:

A. The sixth and seventh paragraphs of the introduction to Ordinance No. 483 beginning with the word "WHEREAS" are hereby repealed and replaced with the following substitute provisions:

"WHEREAS, the City finds and hereby determines that 44.30% of the Sewer Project located from the outlet point at Station 0+00 to 47+18.6 (approximately 4,718.6 linear feet from the connection point) shall be for the benefit of the City-at-large; and"

"WHEREAS, under the act the City finds and determines that 44.30% of the total costs of the Sewer Project should be paid by the city-at-large, with the remainder being assessed against the lots and pieces of ground within the 24/40 Sanitary Sewer District as provided by the Act and this Ordinance."

B. Exhibit A to Ordinance No. 483 (the legal description of the of the 24/40 Sanitary Sewer District) is repealed and replaced with *Exhibit A* to this Ordinance, attached hereto and incorporated here by this reference.

C. Section 5 of Ordinance No. 483 is repealed and replaced with the following substitute provision:

"Apportionment of Cost. The apportionment of the costs and expenses of the Sewer Project is: the 24/40 Sanitary Sewer District shall be assessed 55.70% of the costs and the City-at-large shall pay 44.30% of such costs."

The rest and remainder of Ordinance No. 483 shall remain in full force and effect as enacted.

SECTION 2. Findings Regarding the Extent of the District. As provided in Section 1. B above, the City has reduced the size of the District as created by Ordinance No. 483 by removing properties referred to herein as Pinehurst, Honey Creek and Lacy. With respect to such properties the City makes the following findings.

A. *Pinehurst.* Pinehurst is connected to and uses the Sewer Project by virtue of improvements made and paid for by Pinehurst property owners (the "Pinehurst Project"). The City and Leavenworth County required the Pinehurst Project be larger than necessary to serve Pinehurst in order to make the Sewer Project available to other property expected to connect in the future. Pinehurst property owners paid the costs of upsizing the Pinehurst Project and have thus increased the value of the Sewer Project to the City and to other properties. The costs incurred by the Pinehurst property owners to complete the Pinehurst Project are substantially equal to the costs of the Sewer Project allocable to Pinehurst. The City at large should bear

the costs of the Sewer Project allocable to Pinehurst and Pinehurst should be removed from the District.

- B. *Honey Creek.* Honey Creek is connected to and uses the Sewer Project by virtue of improvements made and paid for by the Honey Creek property owners (the “Honey Creek Project”). Honey Creek is located in the Hog Creek watershed and does not drain to the Sewer Project by gravity. The Honey Creek Project lifts sewage to the Sewer Project and is larger than necessary to serve the Honey Creek property and will serve other property in the future. The Honey Creek Project increases the value of the Sewer Project to the City and to other properties. The City at large should bear any costs of the Sewer Project allocable to Honey Creek and Honey Creek should be removed from the District.
- C. *Lacy.* The Lacy property is located in the Hog Creek watershed and is not connected to the Sewer Project. The Lacy property is unlikely to utilize the Sewer Project in the future. No costs of the Sewer Project are properly allocated to the Lacy property and the Lacy property should be removed from the District.

SECTION 3. Levy of Assessments. Pursuant to the Act special assessments are levied and assessed against the lots, pieces and parcels of land liable for such assessments as described in *Exhibit B* to this Ordinance, which is incorporated here by this reference, and in the amounts set forth on *Exhibit B* following the description of each lot, piece or parcel of land. The assessments are levied to pay the costs of the Sewer Project authorized by Ordinance No. 483 of the City, as amended by this Ordinance.

SECTION 4. Payment of Assessments. The amounts so levied and assessed shall be due and payable from and after the date this Ordinance is published; and the City Clerk is directed to notify each affected property owner, at their last known post office address, of the amounts of their special assessments and that such assessment may be prepaid, without interest, within 30 days of the publication of this Ordinance. The City Clerk shall also notify such property owners that assessments not paid within the 30 day period will be payable in installments over a period of 13 years together with interest at a rate not to exceed that permitted by the laws of the state of Kansas. The City Clerk shall certify all unpaid special assessments levied by this Ordinance to the Leavenworth County Clerk, in the same manner and at the time as other taxes are so certified, to be levied over a period of 13 years, with interest at a rate not exceeding that permitted by Kansas law. The special assessments shall be placed on the tax rolls and collected as and when ad valorem property taxes are collected.

SECTION 5. Collection of Certain Assessments Deferred. Pursuant to K.S.A. 12-6,110 to 12-6,114 and the Act, liability for the payment of special assessments levied on the undeveloped property described on *Exhibit C* to this Ordinance will be delayed for a period of not to exceed 13 years or until such property is platted, developed and/or connected to the Sewer Project. For purposes of this Ordinance the term “undeveloped” shall have the meaning assigned to it in K.S.A. 12-6,113. The City Clerk is directed to note upon such special assessment to words “payment delayed” and the period for which the delay has been granted when certifying such special assessments to the Leavenworth County Clerk.

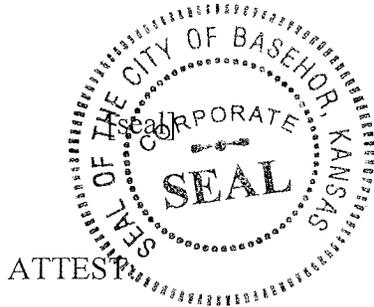
SECTION 6. Further Action. The Mayor and City Clerk are hereby authorized and directed to take all such other actions not inconsistent herewith as may be appropriate or desirable to accomplish the purposes contemplated by this Ordinance.

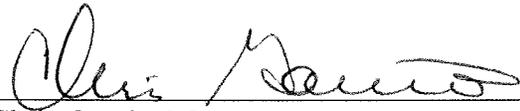
SECTION 7. Effective Date; Recording. This Ordinance shall be in force and take effect from and after its passage, approval and publication one time in the City's official newspaper. The City Clerk is directed to record this Ordinance in the office of the Register of Deeds of Leavenworth County, Kansas.

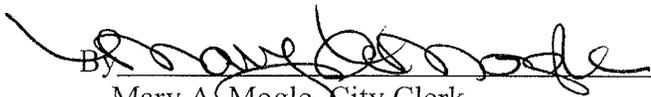
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PASSED AND APPROVED by the governing body of the City of Basehor, Kansas and approved by the Mayor on May 15, 2006.

CITY OF BASEHOR, KANSAS



By 
Chris Garcia, Mayor

By 
Mary A. Mogle, City Clerk