

12-6a04. Initiation of improvement; notice and hearing, when; resolution determining advisability of. (a) Before any contract is let or any work is ordered or authorized for an improvement, the governing body shall by resolution direct and order a public hearing on the advisability of the improvement. Except as provided in subsections (d) and (e), notice of the hearing shall be given by not less than two publications in a newspaper. The two publications shall be a week apart and at least three days shall elapse between the last publication and the hearing. Notice shall be given as to:

- (1) Time and place of hearing;
- (2) general nature of the proposed improvements;
- (3) the estimated or probable cost;
- (4) extent of the proposed improvement district to be assessed;
- (5) the proposed method of assessment; and

(6) proposed apportionment of cost, if any, between the improvement district and the city at large. The hearing may be adjourned from time to time and until the governing body shall have made findings by resolution as to the advisability of the improvement, the nature of the improvement, the estimated cost, the boundaries of the improvement district, the method of assessment and the apportionment of cost, if any, between the district and the city at large, all as finally determined by the governing body, except that the area of the improvement district to be assessed may be less than, but shall not exceed, the area proposed to be assessed as stated in the notice of hearing without giving notice and holding a new hearing on the improvement. The governing body may proceed without such notice and hearing, to make findings by resolution as to the advisability of improvements as provided in this section whenever the proceedings are to improve sanitary and storm water sewers.

(b) Petitions for any improvement authorized to be made under the provisions of this act which set forth:

- (1) The general nature of the proposed improvement;
- (2) the estimated or probable cost;
- (3) the extent of the proposed improvement district to be assessed;
- (4) the proposed method of assessment;
- (5) the proposed apportionment of cost, if any, between the improvement district and the city at large; and

(6) a request that such improvement be made without notice and hearing as required in subsection (a) of this section, may be filed with the city clerk. Names may not be withdrawn from the petitions by the signers thereof after the governing body commences consideration of the petitions or later than seven days after such filing, whichever occurs first, except that the petitions shall contain a notice that the names of the signers may not be withdrawn after such a period of time. Such petitions may be found sufficient if signed by either:

(A) A majority of the resident owners of record of property liable for assessment under the proposal; (B) the resident owners of record of more than one-half of the area liable for assessment under the proposal; or (C) the owners of record, whether resident or not, of more than one-half of the area liable to be assessed under the proposal.

(c) Any municipality, as such term is defined in K.S.A. 12-105a, and amendments thereto, or any one or more persons or entities who or which, whether one or more, are willing to pay the costs of a proposed improvement may file a petition requesting the proposed improvement. Such petition shall be filed with the city clerk and shall set forth:

- (1) The general nature of the proposed improvement;
- (2) the estimated or probable cost;
- (3) a description of the property proposed to be included in the improvement district to be assessed;
- (4) the proposed method or methods of assessment;
- (5) the proposed apportionment of costs, if any, between the improvement district and the city at large;
- (6) a statement that the signers of the petition, in the aggregate, are the owners of 100% of the property or properties proposed to be included in the improvement district, acknowledge that the:

(A) Petition is one submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto;

(B) proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement; and

(C) signers' names may not be withdrawn from the petition by the signers thereof after the governing body commences consideration of the petition or later than seven days after such filing, whichever occurs first; and

- (7) a request that such improvement be made without notice and hearing as required in subsection (a).

For purposes of subsection (c), the term "entity" shall mean and include, but shall not be limited to, any municipality, any natural person, corporation, partnership, limited liability company, limited liability partnership, trust, association or other form of business or charitable organization.

(d) Upon filing of such petitions, the governing body may make findings by resolution as to the advisability of the improvement, the nature of the improvement, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost, if any, between the improvement district and the city at large, all as determined by the governing body. With respect to any petition filed pursuant to subsection (c), such findings shall include a finding that the improvement district does not include all the property which may be deemed to be benefited by the proposed improvement and the persons who signed such petition are willing to pay the costs of the proposed improvement as set forth in the petition. Thereupon the governing body may proceed without notice and hearing to order the improvement as provided in K.S.A. 12-6a06, and amendments thereto, except that no protest shall be received as provided in such section. The area of the improvement district finally determined by the governing body to be assessed may not exceed the district proposed in the petition unless notice is given and a hearing held as provided in subsection (a) of this section, in which instance the proceedings shall be subject to protest as in other cases.

(e) Whenever adjoining parallel streets have been improved, and the city proposes to improve the intervening connecting street to the same extent as the streets to be connected, or when two portions of any street have been improved and an intervening portion not exceeding two blocks has not been improved, and the city proposes to improve such intervening portion to the same extent as the improved portions, in addition to the notice required under subsection (a), notice of public hearing on the advisability of such improvements shall be given by certified mail to the owners of record of such property. Such notice shall include the information required under subsection (a).

History: L. 1957, ch. 99, § 4; L. 1959, ch. 72, § 2; L. 1967, ch. 86, § 1; L. 1997, ch. 97, § 1; L. 2003, ch. 120, § 2; July 1.