



# **City of Grand Island**

**Tuesday, September 25, 2018**

**Council Session**

## **Item C-1**

### **Presentation of the Food & Beverage Occupation Tax Oversight Committee 2018 Annual Report**

**Staff Contact: Marlan Ferguson**

# **Council Agenda Memo**

**From:** Marlan Ferguson, City Administrator

**Meeting:** September 25, 2018

**Subject:** Annual Report by the Food & Beverage Occupation Tax Oversight Committee

**Presenter(s):** Ron Depue, Chairman

## **Background**

The voters of the City of Grand Island approved an occupation tax on food and beverages of one and one half percent (1½%) at the May 10, 2016 election. Subsequent to the election, the city has adopted an ordinance that establishes the Food and Beverage Occupation Tax Oversight Committee to be responsible for reviewing the revenues and expenditures of the city's occupation tax imposed upon persons and entities engaging in the business of providing food services, drinking places, or restaurants. The Committee shall advise the public and city officials with regard to the city's Food and Beverage Tax, and shall confirm that the Food and Beverage Tax revenues are accounted for in the designated special revenue funds and are being expended on eligible projects as provided by city ordinances. The Occupation Tax Oversight Committee is required by the Grand Island City Code to make an annual report to the City Council.

## **Discussion**

The Occupation Tax Oversight Committee has been conducting quarterly meetings during the last nine months as required by the City Code. The committee met on September 13, 2018, reviewed and approved the annual report and voted to forward it on to the City Council for its review.

**REPORT OF THE OCCUPATION TAX OVERSIGHT COMMITTEE  
TO THE GRAND ISLAND CITY COUNCIL  
DATED: September 13, 2018.**

1. **BACKGROUND:** The original Food and Beverage Occupation Tax was approved by ordinance of the Grand Island City Council in September 2008, effective December 1, 2008. The ordinance imposed a 1.5% Occupation Tax on the sale of prepared food and non-alcoholic beverages that were subject to Nebraska Sales Tax. Tax funds were initially used to support the construction of the Community Field House located at Fonner Park as part of the City's required financial contribution related to the relocation of the Nebraska State Fair. Tax revenues were subsequently approved for disbursement for other State Fair related expenses, including relocating softball and soccer fields from Fonner Park to the Veterans Athletic Field Complex and fulfilling the City's matching funds requirement to the State Lottery. The initial ordinance contained a sunset provision providing for the termination of the tax upon the City meeting all of its financing and debt obligations with Wells Fargo related to the construction of the Community Field House.

In anticipation of the sunset of the original tax, in May 2016, Grand Island voters approved the continuation of the City's 1.5% Occupation Tax on the sale of food and beverages (including alcoholic beverages) which are subject to Nebraska Sales Tax. In May 2016, the Council enacted an ordinance which repealed the original tax and enabled enforcement of the voter approved Occupation Tax (the "New Ordinance"). The New Ordinance states that revenue derived from the voter approved Food and Beverage Tax shall be used for the following community enhancements:

- (i) To make the City's quarterly payments to the Nebraska State Fair Support and Improvement Fund as required by Neb. Rev. Stat. §§2-108-110;
- (ii) Promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island;
- (iii) Ongoing enhancement and development of recreation and athletic facilities such as hike, bike and recreational trails, ball fields and other community activity needs; and
- (iv) Invest in community development projects and activities that stimulate progress and growth for Grand Island.

The New Ordinance also created the Occupation Tax Oversight Committee (the "Committee") composed of five members. The initial Committee members appointed by Council and initial terms were: Karl Kostbahn (1 year) Brad Bauer (2 years), Ron Depue (2 years), Kirk Ramsey (3 years) and Lisa Willman (3 years). Kostbahn, Bauer and Depue have each been reappointed for 4 year terms. Ramsey's and Willman's terms expire June 30, 2019 and they are

also eligible for reappointment. The Committee's charge is: (i) to advise the public and City officials with regard to the City's Food and Beverage Tax, and (ii) confirm that the tax revenues are accounted for in the designated special revenue funds and are being expended on eligible projects as provided by City ordinances. The Committee is required to meet at least semi-annually in March and September of each year and submit a written report to the Council on its findings and suggestions each September. At its initial meeting, the Committee decided to meet on a quarterly basis and has done so without fail.

In October 2016, the City and Grow Grand Island, Inc. ("GGI") entered into an Agreement For Community Enhancement Programs (the "Agreement") which states that the City will provide a minimum of \$500,000.00 of food and beverage tax funds on November 1<sup>st</sup> of each year subject to the following restrictions:

Limitation on Use. City funds shall be utilized and expended by GGI solely for such project, programs and purposes that serve and carry out a public purpose as expressly authorized, necessarily or fairly implied in or incidental to those expressly authorized and those essential to the declared objects and purposes of a city of the first class as expressed by Nebraska statutes as from time to time amended. Such projects, programs, and purposes shall encompass and be directed toward encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of exploiting and advertising the various agricultural, horticultural, manufacturing, commercial, and other resources, including utility services, of the city; to promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island; and investment in community development projects and activities that stimulate progress and growth for Grand Island. No more than 10% of the City Funds will be allowed to be used for employee and operation expenses.

GGI is required to account to the City on a quarterly basis and annually submit its financial audit to the City. Prior to its receipt of the annual \$500,000.00 distribution from the City in May 2017, GGI entered into an agreement with the Grand Island Community Foundation (the "Foundation") to provide fiscal management of its funds. As a result of the Foundation's participation, the bonding requirements set forth in the Agreement were eliminated by amendment to the Agreement in March 2017. Prior to expending Tax Funds for a community enhancement project, GGI obtains approval from the City Administrator and City Attorney to assure ongoing compliance and that the proposed distribution is permitted within the Ordinance and Agreement.

In November, 2016 the City approved Ordinance #9610 authorizing a loan not to exceed \$5,000,000.00 to provide financing for a portion of the costs of certain improvements to the City parks and trails system to be paid from revenue sources, including but not limited to, the City's Food and Beverage Tax ("Loan Funds").

2. REVIEW AND ANALYSIS: Pursuant to its directive, the Committee has held regular meetings, reviewed the receipt and distribution of tax funds by the City and GGI, met with City and GGI representatives and reports as follows:

A. Initial Food and Beverage Tax Carryover Funds.

Upon termination of the initial Food and Beverage Tax on June 30, 2016, there were surplus funds in the amount of \$1,244,202.19 ("Restricted Funds"). By City Council resolution adopted in June 2016, the Restricted Funds were earmarked to be used for the following purposes:

- (1) To pay expenses to be incurred for removal and replacement of artificial field turf at the Grand Island Field House;
- (2) To pay expenses to be incurred for design and construction of restrooms at the City's Veterans Sports Complex; and
- (3) The remainder to pay future quarterly payments to the Nebraska State Fair Support and Improvement Fund as required by Neb. Rev. Stat. §2-108-110.

The reports of the City Finance Department concerning receipt and distribution of the Food and Beverage Tax Funds from July 1, 2016- September 30, 2017, October 1, 2017-August 31, 2018 and Summary of All Years are collectively attached hereto as Exhibit "A". All Restricted Funds have been expended appropriately with no remaining Restricted Funds on hand.

B. Receipt and Expenditure of Food and Beverage Tax Funds under the New Ordinance.

The report of the City Finance Department concerning the receipt and expenditure of Food and Beverage Tax Funds under the New Ordinance from July 1, 2016 through August 31, 2018 ("Unrestricted Funds") is also set forth on Exhibit "A". The balance of Unrestricted Funds is \$5,052,719.44, which includes Loan Funds (labeled as "Other Bond Proceeds"). Attached Exhibit "B" is a monthly summary of the Food and Beverage Tax Funds received from October 2013 thru August 31, 2018.

C. Grow Grand Island's Receipt and Expenditure of Tax Funds.

The Summary of Activity of GGI for Tax Funds through August 31, 2018 is attached hereto as Exhibit "C". Tax Funds distributed by the City to GGI are currently deposited into the Foundation's FDIC insured money market account at Home Federal Bank of Grand Island. Tax Funds are segregated from other Foundation funds in the Home Federal account by the Foundation's accounting system (Integrated Foundation Management System "FIMS"). Account funds in

excess of \$250,000.00 FDIC limits are required to be collateralized by pledged securities.

D. COMMENTS:

- (1) For month ending January 31, 2018 the Foundation's accounts were under collateralized by \$254,599.62. This was addressed at the Committee's March meeting and resolved in expeditious manner by the Foundation and GGI. Subsequently, the Foundation has sent the Committee a monthly report confirming account balances and pledged securities. Pledged securities have been substantially in excess of the Foundation's account balances by several hundred thousand dollars each month.
- (2) The Agreement states, "*No more than 10% of the City Funds will be allowed to be used for employee and operation expenses.*" To date, the City has contributed \$1,000,000.00 of tax funds to GGI pursuant to the Agreement. The 10% lid on administrative expenses is \$100,000.00. To date administrative expenses totaling \$106,782.40 have been paid. GGI has been advised to reimburse the Tax Fund accordingly. The annotation on GGI's Financial Report states that the excess administration fee will be determined and paid as of September 30, 2018.
- (3) The City's Food and Beverage Tax Summary Report for year ending September 30, 2017 overstated the total amount of unrestricted tax funds collected post July 1, 2016; however, the City's monthly itemized report was correct. This discrepancy was corrected in accordance with an adjusting journal entry.
- (4) The City has appropriately stepped up its enforcement and collection measures to collect delinquent accounts tax accounts.

3. COMMITTEE FINDINGS:

Subject to the foregoing, based upon the Committee's review of all applicable records and reports and discussions with City legal and financial staff and GGI management, it is the opinion of the Committee that the receipt and expenditure of Food and Beverage Tax Funds through August 31, 2018 comply with the requirements of applicable City Ordinances and Agreements.

4. COMMITTEE RECOMMENDATIONS:

A. The Committee recommends that:

- (1) GGI and the Foundation continue to provide to the City and the Committee monthly written confirmation that all Tax Funds are fully insured or collateralized as required by the Agreement;

- (2) GGI closely monitor administrative expenses to assure the 10% limit is not exceeded in any year; and
- (3) The established practice of obtaining City preapproval with Committee subsequent review of all GGI projects using Tax Funds should continue.

OCCUPATION TAX OVERSIGHT COMMITTEE

BY

  
\_\_\_\_\_  
Ronald S. Depue, Chairman

Food and Beverage  
Occupation Tax Committee

Activity since July 1, 2016-Sept. 30, 2017

ACCOUNT DESCRIPTION/PROJECT NAME	Restricted Activity	Unrestricted Activity	Comments
BEGINNING CASH	\$1,244,202.19	\$0.00	
REVENUE			
FOOD & BEV OCCUPATION TAX	\$0.00	\$2,805,136.64	
OTHER REVENUE	\$0.00	\$64,500.00	Northwestern Energy for State Fair
OTHER BOND PROCEEDS	\$0.00	\$50,001.00	Initial drawdown of loan
Subtotal Revenues	\$0.00	\$2,919,637.64	
EXPENSES			
ENG/DESIGN - UNRESTRICTED	\$0.00	\$1,400.00	Water Park Study
VETS FIELD-RESTROOM AND CONC BUILDING	\$275,716.86	\$0.00	
SUCKS LAKE RETAINING WALL (2017)	\$0.00	\$142,094.00	
HPSF LAND IMPROVEMENTS (2017)	\$0.00	\$9,997.00	
VETS BALLFIELD	\$0.00	\$295,384.01	
BIKE/PED PROJECT	\$0.00	\$7,981.93	
LOAN PRINCIPAL/EXPENSE	\$0.00	\$0.00	
LOAN INTEREST EXPENSE	\$0.00	\$0.00	
ECONOMIC DEVELOPMENT	\$518,931.00	\$0.00	State Fair Payments
OTHER EXPENDITURES	\$0.00	\$20.81	CC Fees for payments
INTEREST EXPENSE	\$0.00	\$275.00	
GROW GRAND ISLAND DONATIONS	\$0.00	\$500,000.00	
UNASSIGNED CAPITAL PROJECTS	\$170,145.00	\$8,887.50	Turf and Eng. Services
Subtotal Expenses	\$964,792.86	\$966,040.25	
ENDING CASH	\$279,409.33	\$1,953,597.39	



Food and Beverage  
Occupation Tax Committee

Activity Oct. 1, 2017-Aug. 31, 2018

ACCOUNT DESCRIPTION/PROJECT NAME	Restricted Activity	Unrestricted Activity	Comments
BEGINNING CASH	\$279,409.33	\$1,953,597.39	
REVENUE			
FOOD & BEV OCCUPATION TAX	\$0.00	\$2,124,416.83	
OTHER REVENUE	\$0.00	\$64,911.26	Northwestern Energy for State Fair & CCRebate
OTHER BOND PROCEEDS	\$0.00	\$4,949,999.00	Initial drawdown of loan
Subtotal Revenues	\$0.00	\$7,139,327.09	
EXPENSES			
ENG/DESIGN - UNRESTRICTED	\$0.00	\$0.00	
VETS FIELD-RESTROOM AND CONC BUILDING	\$12,226.13	\$0.00	
STERLING ESTATES PARK EQUIPMENT	\$0.00	\$79,642.32	
VETS BALLFIELD	\$0.00	\$2,980,448.68	
BIKE/PED PROJECT	\$0.00	\$0.00	
LOAN PRINCIPAL/EXPENSE	\$0.00	\$219,180.08	
LOAN INTEREST EXPENSE	\$0.00	\$68,112.09	
ECONOMIC DEVELOPMENT	\$267,183.20	\$180,317.80	State Fair Payments
OTHER EXPENDITURES	\$0.00	\$4.07	CC Fees for payments
INTEREST EXPENSE	\$0.00	\$0.00	
GROW GRAND ISLAND DONATIONS	\$0.00	\$500,000.00	
UNASSIGNED CAPITAL PROJECTS	\$0.00	\$0.00	
CONTRACT SERVICES	\$0.00	\$12,500.00	Attorney fees for loan
Subtotal Expenses	\$279,409.33	\$4,040,205.04	
ENDING CASH	\$0.00	\$5,052,719.44	

Food and Beverage  
Occupation Tax Committee

Summary of All Years

**EXHIBIT A**  
**3 OF 3**

ACCOUNT DESCRIPTION/PROJECT NAME	Restricted Activity	Unrestricted Activity	Comments
<b>BEGINNING CASH</b>	<b>\$1,244,202.19</b>	<b>\$0.00</b>	
<b>REVENUE</b>			
FOOD & BEV OCCUPATION TAX	\$0.00	\$4,929,553.47	
OTHER REVENUE	\$0.00	\$129,411.26	
OTHER BOND PROCEEDS	\$0.00	\$5,000,000.00	
	\$0.00	\$10,058,964.73	
<b>EXPENSES</b>			
ENG/DESIGN - UNRESTRICTED	\$0.00	\$1,400.00	
VETS FIELD-RESTROOM AND CONC BUILDING	\$287,942.99	\$0.00	
SUCKS LAKE RETAINING WALL (2017)	\$0.00	\$142,094.00	
STERLING ESTATES PARK EQUIPMENT	\$0.00	\$79,642.32	
HPSF LAND IMPROVEMENTS (2017)	\$0.00	\$9,997.00	
VETS BALLFIELD	\$0.00	\$3,275,832.69	
BIKE/PED PROJECT	\$0.00	\$7,981.93	
LOAN PRINCIPAL/EXPENSE	\$0.00	\$219,180.08	
LOAN INTEREST EXPENSE	\$0.00	\$68,112.09	
ECONOMIC DEVELOPMENT	\$786,114.20	\$180,317.80	State Fair Payments
OTHER EXPENDITURES	\$0.00	\$24.88	CC Fees for payments
INTEREST EXPENSE	\$0.00	\$275.00	
GROW GRAND ISLAND DONATIONS	\$0.00	\$1,000,000.00	
UNASSIGNED CAPITAL PROJECTS	\$170,145.00	\$8,887.50	
CONTRACT SERVICES	\$0.00	\$12,500.00	Attorney fees for loan
	\$1,244,202.19	\$5,006,245.29	
	<b>\$0.00</b>	<b>\$5,052,719.44</b>	



**Food and Beverage Occupation Tax - As Received Basis\***

	Actual FY 2013-2014	Actual FY 2014-2015	Change from Previous YR	Actual FY 2015-2016	Change from Previous YR	Actual FY 2016-2017	Change from Previous YR	Actual FY 2017-2018	Change from Previous YR
October	126,792.34	134,701.66	6.24%	129,020.52	-4.22%	190,964.23	48.01%	186,606.85	-2.28%
November	107,279.78	94,645.52	-11.78%	107,234.83	13.30%	179,240.56	67.15%	191,946.97	7.09%
December	128,353.71	146,485.22	14.13%	141,486.71	-3.41%	164,568.71	16.31%	168,050.34	2.12%
January	127,851.56	120,807.22	-5.51%	133,807.58	10.76%	187,718.82	40.29%	206,066.75	9.77%
February	106,413.19	109,524.05	2.92%	205,365.64	87.51%	154,074.55	-24.98%	157,965.35	2.53%
March	113,335.63	152,541.44	34.59%	147,802.65	-3.11%	168,087.66	13.72%	173,549.58	3.25%
April	126,573.61	129,539.97	2.34%	162,503.45	25.45%	197,618.93	21.61%	210,944.44	6.74%
May	119,608.57	126,771.55	5.99%	214,430.97	69.15%	183,478.07	-14.43%	206,202.77	12.39%
June	136,786.00	157,883.23	15.42%	133,374.71	-15.52%	187,008.76	40.21%	205,246.34	9.75%
July	131,644.04	149,088.88	13.25%	157,130.94	5.39%	202,172.43	28.66%	210,139.70	3.94%
August	134,079.05	126,500.69	-5.65%	189,181.36	49.55%	192,971.26	2.00%	207,697.74	7.63%
September	136,673.99	160,317.37	17.30%	227,637.64	41.99%	219,854.06	-3.42%		-100.00%
Total Receipts	1,495,391.47	1,608,806.80		1,948,977.00		2,227,758.04		2,124,416.83	
Year to Date (YTD) Total	1,358,717.48	1,448,489.43	6.61%	1,721,339.36	18.84%	2,007,903.98	16.65%	2,124,416.83	5.80%
YTD Percent Collected	90.86%	90.04%		88.32%		100.40% of Budget		101.16% of Budget	
@ Just over \$22,000 was from multiple year collection judgement									
						2017 Budget	2,000,000	2018 Budget	2,100,000

\* Receipts lag the actual collection by one month. For example, January receipts are based on December sales.

EXHIBIT B

Grow Grand Island - F&B Audit for City 2-Yr Agreement (as of 8/31/2018)

Transactions	Desc	
-\$135,228.00	Equine Stalls (2017)	\$1,000,000.00 Beginning Balance (2017 & 2018 deposits)
-\$164,772.00	Equine Stalls (2017)	-\$450,000.00 Project Disbursements
-\$300,000.00	Subtotal	-\$101,056.43 Admin Disbursements
		\$2,977.04 Earned Interest (as of 8/30/2018)
-\$130,646.03	Bunker Trap (2017)	-\$5,725.97 GICF Admin Fees (as of 6/30/2018)
-\$11,608.05	Bunker Trap (2018)	-\$450,000.00 Undisbursed (2018)
-\$7,745.92	Bunker Trap (2018)	-\$3,805.36
-\$150,000.00	Subtotal	
		\$446,194.64 Available at GICF as of 8/30/18
-\$87,384.29	Campaign (2017)	<u>\$3,805.36</u> Owed by GGI to Balance Admin/Fees
-\$9,953.91	Campaign (2018)	\$450,000.00 Ending Balance (Undisbursed)
-\$3,718.23	Campaign (2018)	
-\$101,056.43	Subtotal	
		Note: City fiscal year is Oct-Sept.
\$989.35	Earned Interest (2017)	GGI and GICF fiscal year is Jan-Dec.
\$1,987.69	Earned Interest (YTD 2018)	GICF interest is calculated monthly.
\$2,977.04	Subtotal	GICF fee is calculated quarterly.
		GGI Admin adjustment will be determined
		and paid as of 9/30/2018.
-\$2,520.80	GICF admin fee (2017)	
-\$45.00	GICF wire fee (2017)	
-\$3,160.17	GICF admin fee (YTD 2018)	
-\$5,725.97	Subtotal	
-\$553,805.36	TOTALS	

EXHIBIT C