



City of Grand Island

Tuesday, November 20, 2018

Council Session

Item I-1

#2018-354 - Consideration of Approving Resolution of Intent to Create Parking District #3 and for the Dissolution of Parking District #1

Staff Contact: Jerry Janulewicz, Patrick Brown

Council Agenda Memo

From: Patrick Brown, Finance Director
Jerry Janulewicz, City Attorney

Meeting: November 20, 2018

Subject: Resolution of Intent to Establish Vehicle Off-Street Parking District No. 3 and Disestablishment of the Downtown Improvement and Parking District (District #1)

Presenter(s): William Clingman, Assistant Finance Director

Background

Ordinance No. 5854 established the Downtown Improvement and Parking District, or “Parking District #1,” in 1975. This original ordinance in its entirety has been included. This ordinance used the following method to collect the license and occupation tax:

License and occupation tax shall be collected from each user of space within the district based upon the square foot space wherein customers, patients, or clients, or other invitees, are received, and space from time to time used or available for use in connection with the business or profession of the user. Rooms or floor space not open to and not used by customers, patients, clients, or other invitees, shall be excluded from computation of floor space, to wit...

The ordinance also included a list of exclusions from the tax, the three we have focused most on are:

- Religious organization property excluded from paying general real estate taxes by Hall County Board of Equalization.
- Space owned or used by political subdivisions.
- Residences used for residential purposes for more than 30 days prior to the effective date of this ordinance, or the date of any taxes due under this ordinance.

Discussion

The goal of the new Parking District #3 is to better balance those paying into the Parking District with those who are using and/or most benefit from the Parking District. The first change for the new district is changing from an occupation tax to a special assessment.

This allows those who utilize the parking to pay into the district with no exceptions. The second change is how the charge is calculated. The original district was effectively charged based upon space open to the public and at the time this was effective since downtown was primarily retail businesses. District #3 will charge the assessment based upon square footage of the entire building, which is more appropriate for the current district as the downtown area has shifted from primarily retail to a mix of office buildings and retail. Both of whom get benefit from the parking the district provides.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Amend the resolution
3. Refer the issue to a Committee
4. Postpone the issue to future date
5. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the resolution of intent to establish Vehicle Off-Street Parking District No. 3 and the disestablishment of the Downtown Improvement and Parking District (District #1).

Sample Motion

Move to approve the resolution as presented.

CITY OF

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NEBRASKA

Parking District Creation and Dissolution

District Map



Parking District 3 Assesment

Legend

- City of Grand Island Owned Lots
- Parking District 3
- Parcels

Downtown Improvement and Parking District (#1)

- Occupation Tax
- Based on space open to the public
- Excludes the following:
 - Non-profits
 - Political subdivisions
 - Residences






(New) Parking District #3

- Special Assessment
- Based on square footage of the building
- No exclusion for who has to pay

Why change now?

- 🌅 Business mix has changed since 1975
- 🌅 Better alignment with users
- 🌅 Opportunity for parking improvements

Timeline for Change

-  Resolution of intent approved by Council on 11/20/18
-  Publication in the paper for 4 consecutive weeks 30 days
-  Public hearing held on 1/8/2019 for (potential) final creation of District #3 and dissolution of District #1
-  Protest can be received up until the meeting on 1/8/2019
-  Protest calculated based on assessed value of the property

ORDINANCE NO. 5854

An ordinance to amend the Grand Island City Code by adding a new chapter to be number 40, pertaining to the establishment of a downtown improvement and parking district; to describe the boundaries thereof; to impose the general license and occupation tax upon the businesses and professions in such district; to establish the rates of such additional tax; to provide for assessment, collection, and uses thereof; to provide for a penalty; to provide for severability; and to provide the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. On June 16, 1975, the Mayor and City Council of the City of Grand Island, Nebraska, duly adopted a Resolution of Intention to establish a downtown improvement and parking district as provided in the Downtown Improvement and Parking District Act of 1969.

SECTION 2. Pursuant to said Resolution of Intent, and after due and legal notice having been published and mailed as provided by law, a hearing thereon was held by said City Council at the city council chambers in the City Hall of Grand Island, Nebraska, at 7:00 p.m., on June 30, 1975.

SECTION 3. That the Grand Island City Code is hereby amended by adding thereto Chapter 40, entitled "Downtown Improvement and Parking District" to read as follows:

CHAPTER 40

DOWNTOWN IMPROVEMENT AND PARKING DISTRICT

Section 40-1. CREATION OF DISTRICT

That there is hereby created and established a Downtown Improvement and Parking District in the City of Grand Island, Nebraska, with the following boundaries, to wit:

Beginning at the intersection of Sycamore Street and First Street; thence westerly on First Street to Pine Street; thence southerly on Pine Street to the southerly boundary of Courthouse Addition; thence westerly along the southerly boundary of Courthouse Addition to Locust Street; thence westerly on Division Street to Walnut Street; thence northerly on Walnut Street to the alley between Division Street and First Street; thence westerly on said alley to Cedar Street; thence northerly on Cedar Street to the alley between Second Street and Third Street; thence westerly on said alley to Elm Street; thence northerly on Elm Street to a point 40 feet north of the southerly right-of-way line of the Union Pacific Railroad; thence easterly parallel to and 40 feet from said right-of-way line to Walnut Street; thence northerly on Walnut Street to a point 100 feet north of the northerly right-of-way of South Front Street; thence easterly parallel to and 100 feet from said right-of-way line to Kimball Avenue extended; thence southerly on Kimball Avenue extended and Kimball Avenue to the alley between Third Street and Second Street; thence westerly on said alley to Sycamore Street; thence southerly on Sycamore Street to the point of beginning.

Section 40-2. TAX

Business and professional offices located within the boundaries of the Downtown Improvement and Parking District shall be subject to the additional tax as provided herein.

Section 40-3. TAX RATE

The initial annual rate of the general license and occupation tax and classification of businesses are as follows:

- (1) $6\frac{1}{2}\%$ square foot floor space upon all space used for business and professional offices in the district, Provided;
- (2) \$40.00 minimum annual tax for any single business or professional office, should the tax rate under (1) above be less than \$40.00;
- (3) Any business or professional office operating and maintaining any off-street parking place within said downtown improvement and parking district which is hereby defined as 180 square feet which may be reasonably used for parking a motor vehicle shall receive \$5.00 credit in computing the tax due under (1) above, but in no event shall pay less than the minimum annual tax as set forth in (2) above.

APPROVED AS TO FORM

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ORDINANCE NO. 5854 (Cont'd)

Section 40-4. USE OF REVENUE

The proposed uses to this additional revenue derived from the imposition of a general business license and occupation tax on businesses and users of the space within the district, are as follows:

- (1) The acquisition, construction, maintenance, and operation of public off-street parking facilities for the benefit of the district area on which no charge for use shall be made.
- (2) Improvement and decoration of any public place in the district area.
- (3) Promotion of public events which are to take place on or in public places in the district area.
- (4) Creation and implementing of a plan for improving the general architectural design of public areas in the district area.
- (5) The development of any public activities in the district area.
- (6) Any other project or undertaking for the betterment of the public facilities in the district area, whether the project be capital or noncapital in nature.

Section 40-5. OCCUPATIONS TAXED

The license and occupation tax shall be fair, equitable, and uniform as to class and shall be based primarily on the square footage of the owner's or user's place of business or professional office space. License and occupation tax shall be collected from each user of space within the district based upon the square foot space wherein customers, patients, or clients, or other invitees, are received, and space from time to time used or available for use in connection with the business or profession of the user. Rooms or floor space not open to and not used by customers, patients, clients, or other invitees, shall be excluded from computation of floor space, to wit:

- (1) Hallways used by the public to gain access to more than one user of space within a building.
- (2) Elevators.
- (3) Stairways.
- (4) Employees lounges and coffee rooms.
- (5) Warehouse and storage areas, including used car lots.
- (6) Private parking spaces and driveways.
- (7) Furnace rooms.
- (8) Religious organization property excluded from paying general real estate taxes by Hall County Board of Equalization.
- (9) Space owned or used by political subdivisions.
- (10) Residences used for residential purposes for more than 30 days prior to the effective date of this ordinance, or the date of any taxes due under this ordinance.
- (11) Private kitchens.
- (12) Utilities areas.
- (13) Maintenance closets.
- (14) Shipping and receiving areas.
- (15) Restrooms.
- (16) Restricted manufacturing areas.
- (17) Restricted equipment areas.

ORDINANCE NO. 5854 (Cont'd)

Section 40-6. TAX COMPUTATION

The city clerk-finance director is authorized and directed, with the advice and recommendations of the Downtown Improvement Board, to determine and compute the tax in accordance herewith.

Section 40-7. OBJECTION TO TAXES

Objections to the determination of amount of additional tax may be made in writing to the city clerk, specifying the basis of such objection. All such objections shall be made within 20 days after the due date thereof, or shall be deemed waived. All timely objections shall be submitted to the Downtown Improvement Board for its consideration, review, and recommendations. The Mayor and City Council shall make the final determination of all such objections, at any regular or special meeting, after notice thereof to said objector.

Section 40-8. ANNUAL TAX

The license and occupation tax imposed by the preceding sections is an annual tax and shall be due and payable on the first day of May each year, commencing May 1, 1976, for the year in advance; Provided, the initial tax shall be one full annual tax payment due on the first day of August 1975 which shall be for the period from August 1, 1975, until April 30, 1976. Businesses and professional offices starting after any tax due date of any year shall pay a prorata tax for the balance of that tax year. Upon payment thereof to the city clerk, the clerk shall give a receipt therefor, properly dated and specifying the person paying, the name of the business or profession on whose behalf the tax is being paid, the amount thereof, and for what period the tax is paid. It is hereby made the duty of every person, partnership, firm, or corporation, engaged in carrying on any business or occupation within the limits of the district as provided on which a license and occupation tax is levied by this ordinance, to pay said tax at the times provided for its payment herein.

Section 40-9. SEGREGATION OF FUNDS

The city clerk-finance director shall place all taxes collected hereunder in a special fund to be used exclusively for the purposes described in this chapter.

Section 40-10. PENALTY

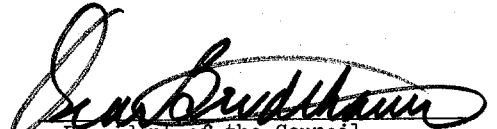
Any person who shall refuse or neglect to pay the general license or occupation tax levied by this chapter, or who transacts or engages in any profession within the district herein established without having complied with the provisions of this chapter shall be guilty of a violation of this Code and may be punished as provided in Section 1-7 of this Code. Any person, partnership, or corporation whose duty is made by this chapter to pay any license tax and who does not pay the same shall be liable for an action for the recovery of the amount of such license tax, Provided, such remedy shall not be deemed as being concurrent with other remedies herein provided.

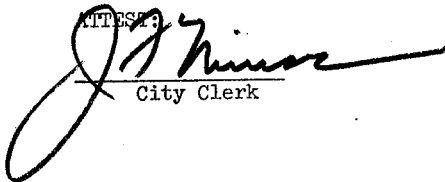
ORDINANCE NO. 5854 (Cont'd)

SECTION 4. In case any section of this ordinance or any part or any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of any remaining portion thereof.

SECTION 5. This ordinance shall be in full force and effect from and after its passage, approval, and publication within fifteen days, as provided by law.

Enacted JUN 30 1975


President of the Council

ATTEST:

City Clerk

RESOLUTION 2018-354

A RESOLUTION OF INTENT TO ESTABLISH VEHICLE OFFSTREET PARKING DISTRICT NO. 3 OF THE CITY OF GRAND ISLAND, NEBRASKA AND THE BOUNDARIES THEREOF; INVITING PRIVATE OWNERSHIP AND OPERATION OF OFFSTREET PARKING FACILITIES AND NOTICE OF PUBLIC HEARING THEREON; PROVIDING FOR NOTICE AND PUBLIC HEARING ON CREATION OF SAID DISTRICT; TO PROVIDE NOTICES IN RELATION THERETO; AND TO PROVIDE NOTICE AND PUBLIC HEARING ON THE DISESTABLISHMENT OF THE DOWNTOWN IMPROVEMENT AND PARKING DISTRICT CREATED BY ORINANCE NO. 5854 CONCURRENT WITH THE ESTABLISHMENT OF PROPOSED VEHICLE OFFSTREET PARKING DISTRICT NO. 3.

WHEREAS, pursuant to the authority granted by the Offstreet Parking District Act, R.R.S. Nebraska §§ 19-3301 through 19-3327, as amended, the Mayor and Council of the City of Grand Island intend to establish Vehicle Offstreet Parking District No. 3 of the City of Grand Island, Nebraska; and

WHEREAS, concurrent with the establishment of Vehicle Offstreet Parking District No. 3, the Mayor and City Council intend to disestablish the currently existing Downtown Improvement and Parking District created and established on June 30, 1975 by Ordinance No. 5854; and

WHEREAS, notice inviting private ownership and operation of parking facilities within the proposed district and public hearing on proposals received is required prior to establishment of a Vehicle Offstreet Parking District pursuant to the Offstreet Parking District Act; and

WHEREAS, public hearings are required on the establishment of a Vehicle Offstreet Parking District and on the disestablishment of a Business Improvement and Parking District.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, as follows:

1. The City of Grand Island intends to establish Vehicle Offstreet Parking District No. 3 of the City of Grand Island, Nebraska (hereinafter referred to as the "District"). The boundaries of the proposed District, which boundaries include all the land in the District which will be specially benefited thereby and which are currently included within

Approved as to Form	▣ _____
November 16, 2018	▣ City Attorney

the existing Downtown Improvement and Parking District created and established on June 30, 1975 by Ordinance No. 5854, are as follows:

Beginning at the intersection of Sycamore Street and First Street; thence westerly on First Street to Pine Street; thence southerly on Pine Street to the southerly boundary of Courthouse Addition; thence westerly along the southerly boundary of Courthouse Addition to Locust Street; thence westerly on Division Street to Walnut Street; thence northerly on Walnut Street to the alley between Division Street and First Street; thence westerly on said alley to Cedar Street; thence northerly on Cedar Street to the alley between Second Street and Third Street; thence westerly on said alley to Elm Street; thence northerly on Elm Street to a point 40 feet north of the southerly right-of-way line of the Union Pacific Railroad; thence easterly parallel to and 40 feet from said right-of-way line to Walnut Street; thence northerly on Walnut Street to a point 100 feet north of the northerly right-of-way of South Front Street; thence easterly parallel to and 100 feet from said right-of-way line to Kimball Avenue extended; thence southerly on Kimball Avenue extended and Kimball Avenue to the alley between Third Street and Second Street; thence westerly on said alley to Sycamore Street; thence southerly on Sycamore Street to the point of beginning.

2. The purpose of the District is to provide for the maintenance, repair, reconstruction and operation of the currently existing, City-owned, offstreet public parking facilities located within the District excepting and excluding parking facilities located upon Lots One (1), Two (2), and Three (3), Parking Ramp Subdivision, a replat of Lots 5, 6, and 7, Block 79, Original Town of Grand Island, Hall County, Nebraska.

3. Application is invited for private ownership and operation of offstreet parking facilities within the District. A public hearing on any application received shall be held on January 8, 2019 at 7:00 p.m. in the City Council Chambers, 100 East First Street, Grand Island, Nebraska. Applications must be physically received no later than 5:00 p.m. local time on January 8, 2019, at the office of the City Clerk, 100 East First Street,

Grand Island, Nebraska, to be considered at said public hearing.

4. No funds are currently proposed to be expended for property acquisition or new construction of offstreet parking facilities within the District.

5. A public hearing on establishment of the District and on disestablishment of the Downtown Improvement and Parking District created and established on June 30, 1975 by Ordinance No. 5854 shall be held on January 8, 2019 at 7:00 p.m., in the City Council Chambers, 100 East First Street, Grand Island, Nebraska. Not later than the hour set for the hearing any owner or any person interested in any real estate within the proposed district may severally or with other owners file with the city clerk written objections to the thing proposed to be done, the extent of the proposed district, or both, and every person so interested shall have a right to protest on any grounds and to object to his real estate being included in the district, and at such hearing all objections and protests shall be heard and passed upon by the mayor and city council.

6. If the owners of the record title representing more than fifty percent of the taxable valuation of all of the taxable real property included in such proposed district or districts and who were such owners at the time the notice of hearing on objections to the creation of the district was first published file with the city clerk within twenty days of the first publication of the notice written objections to the formation of the district, such district shall not be formed and Downtown Improvement and Parking District created and established by Ordinance No. 5854 shall not be disestablished. If objections are not filed by owners of such fifty percent of the taxable valuation of all of the taxable real property and if the mayor and city council find, after considering any other protests and objections that may be filed and after considering the evidence presented at the hearing, that the public health, welfare, convenience, or necessity requires the formation of such an offstreet parking district and facilities, then such district shall be formed by ordinance and the Mayor and Council shall consider and take action on the disestablishment of Downtown Improvement and Parking District created and established by Ordinance No. 5854.

7. Revenues for the District are proposed to be raised by annual special assessments against the real property located in the District to the extent of special benefit based upon

total building area or such other means and method as permitted by law.

8. This Resolution shall be published once per week for four consecutive weeks in a legal newspaper published within the City.

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Adopted by the City Council of the City of Grand Island, Nebraska, November 20, 2018

Jeremy L. Jensen, Mayor

Attest:

Aaron Schmid, City Clerk Pro Tem

- 4 -