



City of Grand Island

Tuesday, April 23, 2002

Council Session

Item F4

#8736 - Consideration of Creating Sanitary Sewer District # 505, Livengood, Sharon Rose and Rapien Subdivisions and part of Sections 15-11-9 and 10-11-9

This Ordinance provides for the establishment of a Sanitary Sewer District located in Livengood, Sharon Rose and Rapien Subdivisions and part of Sections 15-11-9 and 10-11-9. The District would provide for the construction of a sanitary sewer line and related appurtenances along Seedling Mile Road and Willow Street. The area is not currently served by the City sanitary sewer system. The costs would be primarily funded through assessments. The issue has been discussed by Council at previous sessions, and background reference material is attached to this narrative. The formation of the District is in accordance with State law. A 30 day protest period follows the publication of creation of the District. See attached ORDINANCE.

Staff Contact: Steve Riehle, City Engineer/Public Works Director

Creation of Sanitary Sewer District 505
Livengood, Sharon Rose and Rapien Subdivisions and part of Sections 15- 11-9 and 10-11-9
April 19, 2002

Background

Sanitary Sewer District 502 was created by the City Council on August 28, 2001. The District completed the 30-day protest period at 5:00 p.m. Thursday, October 4, 2001, with protests filed by less than 50% of the front footage for the abutting property owners. Property owners in the area are concerned that they can not afford the Sanitary Sewer District. The item for consideration of continuation of the District was tabled at the October 23, 2001 Council meeting.

The following information was discussed at the December 4, 2001 Council meeting:

Total Costs

Public Works staff reviewed the total estimate for the project. The total estimate for the project may be 12 ½ % higher because of the Nebraska Department of Roads' US Highway 30 East project. We reviewed our estimates and do not see any areas where we were high so the initial total project cost estimate is the estimate we should use.

Grant Funding

Public Works Director Steve Riehle, Community Projects Director Cindy Johnson and Monty Montgomery of the Grand Island Area Economic Development Corporation met to explore funding options. The area is not eligible for Community Development Block Grant (CDBG) funds and would be a low priority for funding by the Community Redevelopment Authority (CRA).

Distribution of Assessments

Statute stipulates that the assessments should be allocated in proportion to the benefit to each property. The estimated assessments were calculated by distributing ½ of the project cost by lot area and ½ by front footage.

The motion to approve continuation of the District failed due to abutting property owners' concerns.

Discussion

The Public Works and Community Projects Departments further researched funding avenues such as Nebraska Department of Economic Development funding. We were unsuccessful in identifying funding streams that would be appropriate for this operation.

State statute provides that protests are calculated based strictly on front footage. The statutes call for assessments to be levied to the properties in proportion to their benefit. We reviewed several methods and believe the most equitable formula for determination of benefits and the assessments is to distribute 50% of the cost based on front footage and 50% according to lot area. This method of distributing the assessments was used for the original District costs estimate. The uploaded chart shows the benefits to the property owners for assessing based on a split between front footage and lot area versus strictly front footage.

Nevada Railroad Materials(NRM) will soon be operating their wood railroad tie rehabilitation facility at 1308 East Seedling Mile Road. The Subdivision Agreement states that the subdivider will request a Sanitary Sewer District to serve the Subdivision. A copy of the Subdivision Agreement for Livengood Subdivision, along the north side of Seedling Mile Road is attached. Because of the estimated time needed to complete construction of a Sanitary Sewer District, NRM installed temporary facilities. The temporary facilities are a short-term solution and NRM would like to connect to City sanitary sewer.

Bob Ollendick of NRM will be present at the Council meeting to discuss the issue with the Council so NRM can start their operation in May or June of 2002.

Recommendation

The issue before the Council remains the creation of a sanitary sewer district to serve this area. Council has four alternatives:

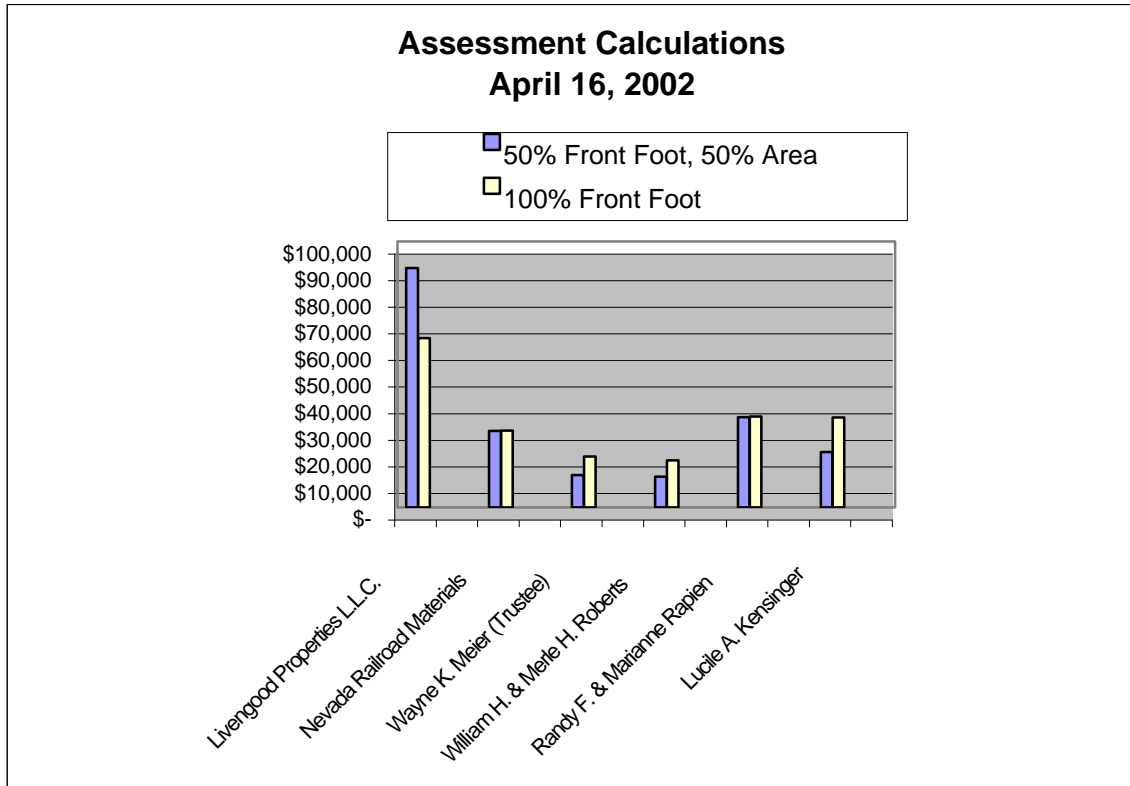
1. **Creation of a Protest District** that has the same boundaries as the original district. A protest period would apply and Council would consider continuation of the District upon completion of the protest period. An Ordinance to create the District will be on the Agenda for Council consideration.
2. **Creation of a Tap District** whereby property owners would not be obligated to pay for their share of the sanitary sewer until they connect. The Wastewater Division of the Public Works Department does not have the financial resources to fund Tap Districts.
3. **Require NRM to build the Sanitary Sewer** as a project at their cost for the section of the sanitary sewer along Seedling Mile Road. The cost to NRM would be increase from an estimated \$28,000 to approximately \$140,000.
4. **Amend the Subdivision Agreement** to allow a private septic tank and leach field for the NRM property. NRM has verbally asked to be reimbursed for the money they spent for sanitary sewer piping on their property in anticipation of a public sanitary sewer main along Seedling Mile Road. Private septic tanks and leach fields within City limits should be discouraged if public sanitary sewer can be made available. An amended Subdivision Agreement could be brought forward for Council consideration at a future meeting.

Financial Implications

If the District is created and continued, the majority of the costs will be assessed to the benefiting properties.

Sanitary Sewer District No. 505-Estimated Assessments

<u>Owner & Address</u>	Total Assessment Calculated 50% by Front Footage, 50% by Lot Area	Total Assessment Calculated By Frontage
Livengood Properties L.L.C.	\$ 89,968.04	\$ 63,716.73
Nevada Railroad Materials	\$ 28,770.53	\$ 28,908.37
Wayne K. Meier (Trustee)	\$ 12,211.49	\$ 19,076.38
William H. & Merle H. Roberts	\$ 11,581.88	\$ 17,663.76
Randy F. & Marianne Rapien	\$ 33,943.76	\$ 34,145.12
Lucile A. Kensinger	\$ 20,839.28	\$ 33,804.64
NDOR	\$ -	\$ -
	\$ 197,315.00	\$ 197,315.00



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Entered As Instrument No.

0200108147

STATE OF NEBRASKA)
COUNTY OF HALL) SS

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Kathie Edwards
REG. OF DEEDS.

CASH 26.00

CHECK _____

REFUNDS _____

CASH _____

CHECK _____

200108147

* This Space Reserved for Register of Deeds *

Return to:
RANAE EDWARDS
CITY CLERK
100 East First Street
Grand Island, NE 68801

26.00

SUBDIVISION AGREEMENT

LIVNGOOD SUBDIVISION

(Lots 1 and 2)

In the City of Grand Island, Nebraska

The undersigned, Livngood Properties, L.L.C., a Nebraska Limited Liability Company, hereinafter called the Subdivider, as owner of a tract of land comprising a part of the all that part of the East Half of the Southeast Quarter (E1/2, SE1/4) of Section Ten (10), in Township Eleven (11) North, Range Nine (9) West of the 6th P.M., lying south of a line drawn parallel with and distant Four Hundred (400.0) feet southerly from the centerline of the south main track of the Union Pacific Railroad Company and west from a line drawn parallel with and distant Four Hundred Fifty Five and Forty Five Hundredths (455.45) feet west from the east line of said East Half of the Southeast Quarter (E1/2, SE1/4) of said Section Ten (10), in the City of Grand Island, Hall County, Nebraska, more particularly described as follows:

All that part of the East Half of the Southeast Quarter (E1/2, SE1/4) of Section Ten (10), in Township Eleven (11) North, Range Nine (9) West of the 6th P.M., lying south of a line drawn parallel with and Four Hundred (400.0) feet in a southerly direction from the centerline of the south main track of the Union Pacific Railroad Company and

lying between two parallel lines drawn respectively One Hundred Eighty and Sixty Three Hundredths (180.63) feet and Four Hundred Fifty Five and Forty Five Hundredths (455.45) feet west of the east line of the East Half of the Southeast Quarter (E1/2, SE1/4) of said Section Ten (10), and parallel with said easterly line containing five acres, more or less, which portion is more particularly described as follows: beginning at a point on the south line of said Section Ten (10), which point of beginning is Two Hundred Eighty Seven and Sixty Three Hundredths (287.63) feet west of the southeast corner of said Section Ten (10), running thence north parallel to the east line of said Section Ten (10), a distance of Two Hundred Eighty Eight (288.0) feet, turning thence east and running parallel with the south line of said Section Ten (10), for a distance of One Hundred Seven (107.0) feet, turning thence north and running parallel with the east line of said Section Ten (10), to a point on the southerly right-of-way line of the Union Pacific Railroad Company; turning thence southwesterly along and upon said railroad right-of-way line to a point Four Hundred Fifty Five and Forty Five Hundredths (455.45) feet west of the east line of said Section Ten (10); turning thence south running parallel with the east line of said Section Ten (10), to a point on the south line of said Section Ten (10); turning thence east and running along and upon the south line of said Section Ten (10), for a distance of One Hundred Sixty Seven and Eighty Two Hundredths (167.82) feet to the point of beginning, all being in the City of Grand Island, Hall County, Nebraska, and containing 14.957 acres, more or less;

desires to have subdivided as a subdivision the foregoing tract of land located within the corporate limits of the City of Grand Island, Nebraska, and hereby submits to the City Council of such City for acceptance as provided by law an accurate map and plat of such proposed subdivision, to be known as LIVENGOOD SUBDIVISION, designating explicitly the land to be laid out and particularly describing the lots, easements, and streets belonging to such subdivision, with the lots designated by number, easements by dimensions, and streets by name, and proposes to cause the plat of such subdivision when finally approved by the Regional Planning Commission and the City Council to be acknowledged by such owner, certified as to accuracy of survey by a registered land surveyor, and to contain a dedication of the easements to the use and benefit of public utilities, and

of the street to the use of the public forever. In consideration of the acceptance of the plat of said LIVENGOOD SUBDIVISION, the Subdivider hereby consents and agrees with the City of Grand Island, Nebraska, that it will install or provide at its expense the following improvements:

1. **Paving.** The Subdivider agrees to waive the right to object to the creation of any paving or repaving district for Seedling Mile Road where it abuts the subdivision.

2. **Water.** Public water supply is available to the subdivision and the Subdivider agrees to extend, connect and provide water service to all lots in the subdivision in accordance with plans and specifications approved by the Director of Public Works, and subject to the City's inspection.

3. **Sanitary Sewer.** The Subdivider shall file a request to create a sanitary sewer district to serve the subdivision along with the submission of this agreement. The Subdivider waives the right to protest the creation of a sanitary sewer district within or abutting the subdivision. All lots in the subdivision shall be connected to sanitary sewer upon completion of the sanitary sewer district. In the alternative, the Subdivider shall construct a public sanitary sewer system, and shall extend, connect and provide sanitary sewer service to all lots in the subdivision in accordance with plans and specifications approved by the Director of Public Works, and subject to the City's inspection. Private sanitary sewer systems shall not be permissible.

4. **Storm Drainage.** The Subdivider agrees to grade all lots in the subdivision in conjunction with the development proposed thereon so that storm drainage is conveyed to a public right-of-way or to other drainage systems so approved by the Director of Public Works.

5. **Sidewalks.** Immediate sidewalk construction adjacent to Seedling Mile Road shall be waived. However, the sidewalks shall be constructed when the property owner is directed

to do so by the City Council. In the event a Street Improvement District is created to pave any public street in the subdivision, the Subdivider agrees to install public sidewalks within one year of the completion of such street improvement district in accordance with the City of Grand Island Sidewalk Policy.

6. **Landscaping.** The Subdivider agrees to comply with the requirements of the Landscaping Regulations of the City of Grand Island, and plans as submitted to and approved by the City's Building Department.

7. **Engineering Data.** All final engineering plans and specifications for public improvements shall bear the signature and seal of a registered professional engineer and shall be furnished by the Subdivider to the Department of Public Works for approval prior to contracting for construction of any improvements. Inspections of improvements under construction shall be performed under the supervision of a professional registered engineer and upon completion shall be subject to inspection and approval by the Department of Public Works prior to acceptance by the City of Grand Island. An "as built" set of plans and specifications including required test results bearing the seal and signature of a registered professional engineer shall be filed with the Director of Public Works by the Subdivider prior to acceptance of these improvements by the City.

8. **Warranty.** The undersigned owner, as Subdivider, warrants that it is the owner in fee simple of the land described and proposed to be known as LIVENGOOD SUBDIVISION, and that an abstract of title will be submitted for examination, if necessary, upon request of the City of Grand Island.

9. **Successors and Assigns.** This agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, heirs,

devises, and legatees. Where the term "Subdivider" is used in this agreement, the subsequent owners of any lots in the subdivision shall be responsible to perform any of the conditions of this agreement if the Subdivider has not performed such conditions.

Dated 8/1, 2001.

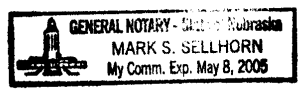
LIVENGOOD PROPERTIES, L.L.C.,
a Nebraska Limited Liability Company,
Subdivider

By: William D. Livengood
William D. Livengood, President

STATE OF NEBRASKA)
LANCASTER) ss
COUNTY OF ~~LANCASTER~~)

On August 1, 2001, before me, the undersigned, a Notary Public in and for said County and State, personally appeared William D. Livengood, President of Livengood Properties, L.L.C., a Nebraska limited liability company, known personally to me to be the identical person and such officer who signed the foregoing Subdivision Agreement and acknowledged the execution thereof to be his voluntary act and deed for the purpose therein expressed on behalf of the corporation.

WITNESS my hand and notarial seal the date above written.



Mark Sellhorn
Notary Public

CITY OF GRAND ISLAND, NEBRASKA
A Municipal Corporation

By: Ken Ghadt
Ken Ghadt, Mayor

Attest: RaNae Edwards
RaNae Edwards, City Clerk



? This Space Reserved for Register of Deeds ?

ORDINANCE NO. 8736

An ordinance creating Sanitary Sewer District No. 505 of the City of Grand Island, Nebraska; defining the boundaries thereof; providing for the laying of sanitary sewer mains in said district; providing for plans and specifications and securing bids; providing for the assessment of special taxes for constructing such sewer and collection thereof; and providing for publication and the effective date of this ordinance.

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

SECTION 1. Sanitary Sewer District No. 505 is hereby created for the construction of ten (10.0) inch sanitary sewer mains and appurtenances thereto for Livengood Subdivision, Rapien Subdivision, Sharon Rose Subdivision, and a part of the Southeast Quarter (SE1/4) of Section Ten (10), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., and a part of the Northeast Quarter (NE1/4) of Section Fifteen (15), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., all in the city of Grand Island, Hall County, Nebraska.

Approved as to Form? _____
April 19, 2002 ? City Attorney

ORDINANCE NO. 8736 (Cont.)

SECTION 2. The boundaries of such sanitary sewer district shall be as follows:

Beginning at the northwest corner of Livengood Subdivision; thence south on the west line of Livengood Subdivision, Sharon Rose Subdivision and a prolongation thereof to the north line of U.S. Highway No. 30; thence northeasterly on the north line of U.S. Highway No. 30, said line also being the southerly line of Rapien Subdivision and a prolongation thereof to the south line of Section 10-11-9; thence east on the south lines of Section 10-11-9 and Section 11-11-9 to a point Ninety Three (93.0) feet east of the southwest corner of Section 11-11-9; thence north on a line Ninety Three (93.0) feet east of and parallel to the west line of Section 11-11-9 to a point on the north line of Lot 12, Bosselman Brothers Subdivision; thence southwesterly on the north lines of Bosselman Brothers Subdivision, Livengood Subdivision and a prolongation thereof to the point of beginning, all as shown on the plat dated April 18, 2002, attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 3. Said improvement shall be made in accordance with plans and specifications prepared by the Engineer for the City who shall estimate the cost thereof, and submit the same to the City Council, and thereafter, bids for the construction of such sanitary sewer shall be taken and contracts entered into in the manner provided by law.

SECTION 4. The cost of construction of such sanitary sewer district shall be assessed against the property within the district abutting upon the easement or other right-of-way within which such sanitary sewer main has been constructed, to the extent of benefits to such property by reason of such improvement, and a special tax shall be levied at one time to pay for such cost of construction as soon as can be ascertained as provided by law; and such special tax and assessments shall constitute a sinking fund for the payment of any warrants or bonds with interest, issued for the purpose of paying the cost of such sewer in such district; and such special assessments shall be paid and collected in a fund to be designated and known as the Sewer and Water Extension Fund and out of which all warrants issued for the purpose of paying the cost of sanitary sewer shall be paid.

ORDINANCE NO. 8736 (Cont.)

SECTION 5. This ordinance shall be in force and take effect from and after its passage, approval and publication, without the plat, as provided by law.

SECTION 6. This ordinance, with the plat, is hereby directed to be filed in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 7. After passage, approval and publication of this ordinance, notice of the creation of said district shall be published in the Grand Island Independent, a legal newspaper published and of general circulation in said City, as provided by law.

Enacted: April 23, 2002.

Ken Gnadt, Mayor

Attest:

RaNae Edwards, City Clerk