



City of Grand Island

Tuesday, May 08, 2007

Council Session

Item G5

**#2007-104 - Approving Severance Agreement with the Northwest
Baseball/Softball Association**

Staff Contact: Steve Paustian

Council Agenda Memo

From: Steve Paustian, Park and Recreation Director

Meeting: May 2, 2006

Subject: Approving Severance Agreement with Northwest Baseball/Softball Association

Item #'s: G-5

Presenter(s): Steve Paustian, Park and Recreation Director

Background

The Northwest Baseball/Softball Association (NWBSA) received a grant to purchase backstops and fencing for two fields being developed on property belonging to the First United Methodist Church located at 4190 West Capital Avenue. The backstops and fencing will provide an area for participants to play. These new fields will take the place of the two fields currently located at Westridge Middle School when the school becomes Engelman Elementary.

Discussion

In order for NWBSA to purchase backstops and fencing materials sales tax free the City needs to own the improvements. The legal department has drafted an agreement with the Church that would clarify City ownership of the backstops and associated fencing and to allow the purchase to be made without paying sales tax.

Alternatives

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

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

Recommendation

City Administration recommends that the Council enter into an agreement with the First United Methodist Church that will allow the purchase of the backstops and associated fencing to be sales tax exempt.

Sample Motion

Motion to approve the severance agreement with First United Methodist Church.

SEVERANCE AGREEMENT

WHEREAS, The City of Grand Island, Nebraska (herein called City), will place certain improvements upon real estate owned by the First United Methodist Church, (*herein called the "Church"*), for a sports league program under an agreement with the City to wit:

Chain link backstops and accessory equipment which is (are) affixed or will be affixed to the following-described real estate:

A tract of land comprising a part of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$), and a part of the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Two (2), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., in Hall County, Nebraska, more particularly described as follows:

Beginning at a point One (1.0) foot west of the southwest corner of said Southeast Quarter (SE $\frac{1}{4}$); thence easterly along the south line of said Section Two (2), a distance of One (1.0) foot, to the southwest corner of said Southeast Quarter (SE $\frac{1}{4}$); thence continuing easterly along the south line of said Section Two (2), a distance of Seven Hundred Forty (740.0) feet; thence northerly perpendicular to said south line of Section Two (2), a distance of Four Hundred Seven (407.0) feet; thence westerly parallel to the south line of said Southeast Quarter (SE $\frac{1}{4}$), a distance of Seven Hundred Forty-Nine and Twenty-Five Hundredths (749.25) feet, to a point one (1.0) foot west of the west line of said Southeast Quarter (SE $\frac{1}{4}$), also being a point on the east line of Independence Avenue; thence southerly along said east line of Independence Avenue, also being a line one (1.0) foot west of and parallel to the west line of said Southeast Quarter (SE $\frac{1}{4}$), a distance of Four Hundred Seven (407.0) feet to the place of beginning, said tract containing 6.961 acres, more or less, except a tract described as: Beginning at a point where the east line of Independence Avenue intersects with the north line of Capital Avenue; thence east on the north line of Capital Avenue for a distance of sixty (60.0) feet; thence northerly, curving left on an arc with a radius of Three Hundred Thirty Feet (330.0) and a chord length of One Hundred Forty-Five and Two Hundredths (145.02) feet to a point of reverse curvature; thence curving right on an arc with a radius of Two Hundred Eighty Seven and Eight-Six Hundredths (287.86) feet and a chord length of One Hundred Twenty Three and Seventy-Two Hundredths (123.72) feet to a point on the east line of Independence Avenue; thence southerly on the east line of Independence Avenue for a distance of Two Hundred Sixty One and Ninety-Four Hundredths (261.94) feet to the point of beginning previously deeded to the City of Grand Island, Hall County, Nebraska.

NOW, THEREFORE, in consideration of the making such improvements by the City, the undersigned parties hereby;

(1) Consent to the installation of said structures or improvements and agree that the same shall be and remain severed from the real property described above, shall not be or become fixtures or a part of the real estate even though attached thereto,

(2) Agree that the "City" may take possession of and remove said property without notice to the undersigned parties and without liability to them for any diminution of value of the real estate caused by the absence of the property or by any necessity for replacing the property.

(3) Agree that the property shall not be subject to any encumbrances heretofore or hereafter placed on the real estate by any of the parties except the "City".

(4) Agree that as between the owner of the real estate and owner of the chattels subject to this severance agreement (City), the chattels shall remain the separate property of City who shall have the right to remove the same from the real estate.

IN WITNESS WHEREOF, the undersigned parties hereto have executed this instrument this ____ day of _____, 20__

THE FIRST UNITED METHODIST CHURCH,

By: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF)

Before me, a notary public qualified for said county, personally came _____ on behalf of the First United Methodist Church and acknowledged the execution thereof to be _____ voluntary act and deed.

Witness my signature and notary seal on _____, 20__.

Notary Public

My commission expires: _____

RESOLUTION 2007-104

WHEREAS, the City of Grand Island has an agreement with Northwest Baseball/Softball Association to provide administration for the baseball league program; and

WHEREAS, it is desirable to develop ball fields upon property owned by the First United Methodist Church described hereinafter; and

WHEREAS, the city must retain ownership of the physical improvements purchased with city funds; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the city allow the installation of chain linked back stops and accessory equipment upon the real estate hereinafter described in the amount of \$4,511.42 for use in the sports program administered by Northwest Baseball/Softball Association pursuant to its agreement with the City of Grand Island, Nebraska. Provided however, that the source of funds for this expenditure shall come entirely from gifts from Northwest Baseball/Softball Association and grants. Improvements purchased with these funds shall remain the property of the City of Grand Island, Nebraska, and a severance agreement will be signed by the First United Methodist Church and recorded in the office of the Hall County Register of Deeds. The severance agreement may be executed on behalf of the city by the Mayor and attested to by the City Clerk.

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Adopted by the City Council of the City of Grand Island, Nebraska, May 8, 2007.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	<input type="checkbox"/>	_____
May 4, 2007	<input type="checkbox"/>	City Attorney

Legal Description:

A tract of land comprising a part of the Southwest Quarter (SW¹/₄) of the Southeast Quarter (SE¹/₄), and a part of the Southeast Quarter (SE¹/₄) of the Southwest Quarter (SW¹/₄) of Section Two (2), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., in Hall County, Nebraska, more particularly described as follows:

Beginning at a point One (1.0) foot west of the southwest corner of said Southeast Quarter (SE¹/₄); thence easterly along the south line of said Section Two (2), a distance of One (1.0) foot, to the southwest corner of said Southeast Quarter (SE¹/₄); thence continuing easterly along the south line of said Section Two (2), a distance of Seven Hundred Forty (740.0) feet; thence northerly perpendicular to said south line of Section Two (2), a distance of Four Hundred Seven (407.0) feet; thence westerly parallel to the south line of said Southeast Quarter (SE¹/₄), a distance of Seven Hundred Forty-Nine and Twenty-Five Hundredths (749.25) feet, to a point one (1.0) foot west of the west line of said Southeast Quarter (SE¹/₄), also being a point on the east line of Independence Avenue; thence southerly along said east line of Independence Avenue, also being a line one (1.0) foot west of and parallel to the west line of said Southeast Quarter (SE¹/₄), a distance of Four Hundred Seven (407.0) feet to the place of beginning, said tract containing 6.961 acres, more or less, except a tract described as: Beginning at a point where the east line of Independence Avenue intersects with the north line of Capital Avenue; thence east on the north line of Capital Avenue for a distance of sixty (60.0) feet; thence northerly, curving left on an arc with a radius of Three Hundred Thirty Feet (330.0) and a chord length of One Hundred Forty-Five and Two Hundredths (145.02) feet to a point of reverse curvature; thence curving right on an arc with a radius of Two Hundred Eighty Seven and Eight-Six Hundredths (287.86) feet and a chord length of One Hundred Twenty Three and Seventy-Two Hundredths (123.72) feet to a point on the east line of Independence Avenue; thence southerly on the east line of Independence Avenue for a distance of Two Hundred Sixty One and Ninety-Four Hundredths (261.94) feet to the point of beginning previously deeded to the City of Grand Island, Hall County, Nebraska.