



# City of Grand Island

Tuesday, August 26, 2008

Council Session

## Item F1

**#9180 - Consideration of Creating Business Improvement District  
#8, Downtown**

*This item relates to the aforementioned Public Hearing Item E-3.*

Staff Contact: Wes Nespor

ORDINANCE NO. 9180

An ordinance amending Chapter 13 Sections 13-91 through 13-96; establishing a business improvement district; establishing the purpose of such district; describing the boundaries of such district; establishing that real property in the area will be subject to a special assessment; establishing a method of assessment; providing for a penalty for failure to pay the special assessment; repealing ordinances in conflict herewith; providing for severability; and providing for publication and the effective date of this ordinance.

WHEREAS, the City Council adopted Resolution 2008-211 on August 12, 2008, which was published on August 15, 2008 in the *Grand Island Independent* establishing the intention to create a business improvement district; and

WHEREAS, pursuant to said resolution, a notice of hearing was published and mailed as required by law, and public hearing duly held at 7:00 p.m. on August 26, 2008, in the Council Chambers at City Hall, 100 East First Street, Grand Island, Nebraska, concerning the formation of such district; and

WHEREAS, the proposed business improvement district is located within the boundaries of an established area of the City zoned for business, public, or commercial purposes; and

WHEREAS, the City Council now finds and determines that a business improvement district should be created in accordance with the proposal contained in said resolution of August 12, 2008.

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

ORDINANCE NO. 9180 (Cont.)

SECTION 1. Article XII and Chapter 13 Sections 91 through 96 of the Grand Island City Code are amended to read:

**ARTICLE XII. Business Improvement District No. 8**

**§13-91 Creation of District.**

There is hereby created and established a business improvement district pursuant to Chapter 19, Article 40, Revised Statutes of Nebraska, 1943, as amended, to be known as Business Improvement District No. 8 of the City of Grand Island, Nebraska.

**§13-92 Purpose**

The purpose, public improvements and facilities to be included in said district shall be:

- (A) Retention and Recruitment. Business Improvement District No. 8 will encourage business retention and recruitment through the planning and implementation of Downtown promotions, continued Main Street commitments and downtown investments to attract the attention of people looking for vibrant and welcoming places to dine, shop, live, work and play.

Funds have been allocated for each of the five years for Retention and Recruitment, Main Street Promotions, the Grand Theatre, Main Street Contract; and funding in years 1-3 for the research and development of a Revolving Loan Fund.

- (i) Creation and implementation of a plan for improving the general architectural design of public areas in the district;
  - (ii) The development of any public activities and promotion of public events, including the management and promotion and advocacy of retail trade activities or other promotional activities, in the district area, including, but not limited to, plans, creation, development, equipment, supplies, materials, services, management, staff, maintenance and improvement of communication and image building events and activities, such as holiday events, community events, media activities, newsletters, seasonal and special events and parades and other activities for the benefit of the district.
- (B) Downtown Beautification. The beautification component of the Business Improvement District #8 budget is comprised of physical improvements to the District. The Board, through a series of informal and formal discussion with

## ORDINANCE NO. 9180 (Cont.)

downtown property owners, identified a need to augment the existing physical elements in the downtown. By increasing artistic elements, it is believed the personality of the downtown will be strengthened and a sense of place developed. A consistent approach to adding these artistic elements will enhance the uniqueness of downtown and, at the same time, create a pleasant setting to complement the various activities held in the downtown. These physical improvements include, but are not limited to, Kaufmann Cummings Park, planters, murals, sculptures, trees and grates, signs and banners, benches, streetscape, and trash containers.

- (i) Improvement of any public place or facility in the district area, including landscaping, physical improvements for decoration or security purposes, and plantings, including but not limited to, plans, creation, development, equipment, supplies, materials, services, management, staff, maintenance, improvement and associated activities of streetscape and alleyway improvement
- (ii) Construction or installation of sidewalks, parks, meeting and display facilities, lighting, benches or other seating furniture, sculptures, trash receptacles, shelters, fountains, and any useful or necessary public improvements, including, but not limited to plans, creation, development, equipment, supplies, materials, services, management, staff, maintenance, improvement, and associated activities of streetside and other public area projects;
- (iii) Maintenance, repair, and reconstruction of any improvement's or facilities authorized by the Business Improvement District Act

(C) Implementation and Maintenance: The talent and resources vested in this district rely upon the successful completion of each project and careful maintenance of the downtown area to ensure the best possible results from the investments of downtown stakeholders, including this District. To accomplish the duties incumbent upon this District in all areas of work described herein, the district may recruit volunteers or secure labor and services for hire:

- (i) The district may employ or contract for personnel for any improvement program under the act, and providing for any service as may be necessary or proper to carry out the purposes of the act, including, but not limited to, activities, projects, staff, consulting services, materials, equipment, supplies, and services necessary or convenient for the management of the affairs of the business improvement district, to include budget development and supervision, representation of the interests of the district to public and private entities, research, development, travel, training, development and implementation of business and residential recruitment and retention projects, downtown beautification projects and activities which contribute to regaining, sustaining or improving the

## ORDINANCE NO. 9180 (Cont.)

economic health and viability of the district and the implementation of the goals and objectives of the Business Improvement Board.

- (ii) 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.

### **§13-93 District Boundaries**

The outer boundaries of Business Improvement District No. 8 are described as follows:

Beginning at a point being the intersection of the South line of Third Street and the West line of Kimball Avenue; thence South on the West line of Kimball Avenue to a point One Hundred Thirty-Two Feet (132') South of the South line of First Street; thence West on a line One Hundred Thirty-Two Feet (132') South of and parallel to the South line of First Street to the West line of Sycamore Street; thence Southerly on the Westerly line of Sycamore Street to the North line of Court Street; thence Westerly on the North line of Court Street to the West line of Pine Street; thence Southerly on the West line of Pine Street to the North line of Charles Street; thence Westerly on the North line of Charles Street and an extension thereof to the East line of Walnut Street; thence Northerly on the East line of Walnut Street to a point One Hundred Thirty-Two Feet (132') North of the North line of Division Street; thence West on a line One Hundred Thirty-Two Feet (132') North of and parallel to the North line of Division Street and an extension thereof to the East line of Cedar Street; thence Northerly on the East line of Cedar Street to the South line of First Street; thence West on the South line of First Street to the West line of Elm Street; thence Southerly on the West line of Elm Street for a distance of One Hundred Thirty-Two Feet (132'); thence Westerly on a line One Hundred Thirty-Two Feet (132') South of and parallel to the South line of First Street to the East line of Eddy Street; thence Northerly on the East line of Eddy Street to the South line of South Front Street; thence Easterly on the South line of South Front Street to the West line of Oak Street; thence Southerly on the West line of Oak Street to the South line of Third Street; thence Westerly on the South line of Third Street and an extension thereof to the point of beginning.

Commonly owned properties that are intersected by a boundary line establishing the district shall be considered as entirely within the district unless otherwise determined by the City Council when sitting as a Board of Equalization.

### **§13-94 Special Assessments**

The real property located within the boundaries of Business Improvement District No. 5 shall be subject to special assessment as authorized by Chapter 19, Article 40, Sections 19-4015 through

ORDINANCE NO. 9180 (Cont.)

19-4038, Revised Statutes of Nebraska, 1943, as amended, also known as the Business Improvement District Act.

**§13-95 Assessment Method**

The method of assessment to be imposed within said district shall be as follows:

(A) In a timely fashion each year, except the initial creating year, a proposed budget shall be prepared for Business Improvement District No. 8 for the ensuing fiscal year to commence on the first day of October and end on the following last day of September.

(B) Said proposed budget shall be considered by the city council during open session at a regularly scheduled city council meeting. Following such consideration, a proposed assessment schedule shall be prepared.

(C) The amount of the special assessment for each property shall be based upon the special benefits to the property as fairly and equitably assessed by the City Council and calculated in accordance with the following formula:

Assessed value of individual property divided by total assessed value of all taxable property in the district times total special assessment equals individual special assessment. Based upon the recommendation of the Business Improvement District Board, owner-occupied residential properties within the district will be assessed at 70% of assessed valuation based on their primary benefit from the downtown beautification and maintenance programs. Owners of property exempt from ad valorem taxes are encouraged to support District activities, promotions, and improvements but property exempt from ad valorem taxes will not be subject to special assessment for this Business Improvement District. Property owned by the Federal Government, the State of Nebraska and political subdivisions thereof shall not be subject to special assessment for this Business Improvement District. For mixed use properties that combine owner-occupied residential and other uses, the property owner may submit evidence supporting a pro-rated split of the assessed value (between owner-occupied residential and other uses) for the City Council to consider when sitting as a board of equalization. The assessed values to be used in the above formula shall be the values, as shown in the office of the Hall County Assessor, in effect on the first day of January of the current year.

(D) The proposed district shall become effective on October 1, 2008 for a period of five years to terminate on September 30, 2013. The estimated total annual budget for costs and expenses of the work to be performed within such district during the first year totals \$137,500; provided that the maximum amount of the first year's annual assessment for the district shall not exceed \$90,000. The estimated total first-year budget by area of work is as follows:

Retention and Recruitment	\$41,500
Downtown Beautification	\$53,500
Implementation and Maintenance	\$42,500

## ORDINANCE NO. 9180 (Cont.)

In the subsequent four years, the maximum amount of annual assessment and annual budget for the district will not exceed the first year maximum assessment and budget amounts plus an annual increase equal to the amount of the Consumer Price Index or 3%, whichever is less. The assessments levied for the first year shall not exceed \$90,000. The district may pursue additional funding (without increasing the district assessments) to complete the amounts for costs and expenses included in the budget. The specific improvements for the first year are listed for purposes of estimating the costs and expenses of performing the proposed work and improvements. Although the district is proposed for a five-year period, the City council, after public hearing, shall approve an annual budget for specific improvements in each succeeding year consistent with the ordinance creating the district. The City Council retains the authority to change, modify and remove proposed improvements; however, the proposed improvements cannot exceed the scope of improvements and the annual assessment cannot exceed the maximum amounts of the annual assessment as provided by the ordinance creating the district.

(E) Notice of the proposed assessment shall be published as required by NE. Rev. Statutes Section 19-4030, as amended.

(F) The city council, sitting as a Board of Equalization, shall levy the special assessments on all properties at one time, in accordance with the method of assessment provided above. If the city council finds that the proposed method of assessment does not provide a fair and equitable method of apportioning costs, then it may assess the costs under such method as the city council finds to be fair and equitable.

(G) Said assessments shall be payable in one installment to be come delinquent fifty (50) days after the date of such levy. Delinquent payments shall draw interest at the rate specified in NE. Rev. Statutes Section 45-104.01, as amended. All special assessments provided herein shall be a lien on the property assessed superior and prior to all other liens except general taxes and other special assessments which shall be of equal priority. Liens for special assessments may be foreclosed and are subject to interest at the statutory rate when payment of the assessment is delinquent as provided by law. No special assessment made hereunder shall be void for any irregularity, defect, error or informality in procedure, in levy or equalization thereof.

### **§13-96 Disestablishment Procedure**

In the event requests to disestablish this business improvement district are made and filed with the city clerk within any (30) day period by owners of real property representing fifty percent (50%) or more of the total value of the real property within the district as shown in the office of the Hall County Assessor on the first day of January of the current year, the city council may disestablish the district by ordinance after a hearing before the city council. The city council shall

ORDINANCE NO. 9180 (Cont.)

adopt a resolution of intention to disestablish the area at least fifteen days prior to the hearing. The resolution shall give the time and place of the hearing. After hearing, the city council may disestablish the district as provided in the Business Improvement District Act.

SECTION 2. Any ordinance or ordinances in conflict herewith, be and hereby are, repealed. Specifically Sections 13-30 through 13-39 and Sections 13-71 through 13-80 are repealed and reserved.

SECTION 3. If any section, subsection, sentence, phrase, or clause, of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. This ordinance shall be in force and take effect from and after its passage, approval and publication, in pamphlet form, within fifteen days in one issue of the *Grand Island Independent* as provided by law.

Enacted: August 26, 2008.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk