



# City of Grand Island

Tuesday, September 09, 2008

Council Session

## Item F6

**#9186 - Consideration of Creating Business Improvement District  
#6, Second Street**

*This item relates to the aforementioned Public Hearing Item E-5.*

Staff Contact: Wes Nespor

ORDINANCE NO. 9186

An ordinance amending Chapter 13 Sections 13-71 through 13-76; 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 2008-220 on August 26, 2008, which was published on August 28, 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 September 9, 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 26, 2008.

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

ORDINANCE NO. 9186 (Cont.)

SECTION 1. Article X and Chapter 13 Sections 71 through 76 of the Grand Island City Code are amended to read:

**ARTICLE X. Business Improvement District No. 6**

**§13-71 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. 6 of the City of Grand Island, Nebraska.

**§13-72 Purpose**

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

(A) Improvement of any public place or facility in the district area, including landscaping, physical improvements for decoration or security purposes, and plantings and maintenance, repair, and reconstruction of any improvements or facilities authorized by the Business Improvement District Act, including, but not limited to: maintenance and improvement of the landscaped greenway; maintenance, repair, improvement and replacement of the sprinkler system in the greenway; regular mowing and trimming of the greenway; all facets of the purchase, care and replacement of trash receptacles, benches, welcome signs, streetscape improvements, trees, shrubs and grass and other decorative improvements; snow removal from the sidewalks parallel to Second Street; employment of or contracting for personnel, purchase of equipment, materials, supplies or other expenses to accomplish the purposes of the district; other incidental or ongoing expenses as needed for the maintenance, improvement and beautification of the green belt area and to accomplish the goals and objectives of the Business Improvement Board of the district.

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

(C) 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.

ORDINANCE NO. 9186 (Cont.)

**§13-73 District Boundaries**

The outer boundaries of Business Improvement District No. 6 are described as follows:

Beginning at a point on the Westerly line of Eddy Street, said point being One Hundred Thirty-Two Feet (132') Southeast of the Southerly line of Second Street and the Westerly line of Eddy Street; thence Westerly on a line One Hundred Thirty-Two Feet (132') Southeast and parallel to the Southerly line of Second Street to a point Sixty-Six Feet (66') Northeast of the Easterly line of Greenwich Street; thence Southerly on a line Sixty-Six Feet (66') Northeast of and parallel to the Easterly line of Greenwich Street to the Northerly line of First Street; thence Westerly on the Northerly line of First Street to a point Sixty-Six Feet (66') Southwest of the Westerly line of Greenwich Street; thence Northerly on a line Sixty-Six Feet (66') Southwest of and parallel to the Westerly line of Greenwich Street to a point One Hundred Thirty-Two Feet (132') Southeast of the Southerly line of Second Street; thence Westerly on a line One Hundred Thirty-Two Feet (132') Southeast of and parallel to the Southerly line of Second Street to a point Sixty-Six Feet (66') Northeast of Broadwell Avenue; thence Southerly on a line Sixty-Six Feet (66') Northeast of and parallel to the Easterly line of Broadwell Avenue to the Northerly line of First Street; thence Westerly on the Northerly line of First Street to a point One hundred thirty-five and sixty-nine hundredths Feet (135.69') Southwest of the Westerly line of Broadwell Avenue; thence Northerly on a line One hundred thirty-five and sixty-nine hundredths Feet (135.69') Southwest of and parallel to the Westerly line of Broadwell Avenue Sixty-five and seventy-six hundredths feet (65.76'); thence Westerly on a line parallel to the Northerly line of First Street twenty-three Feet (23'); thence Northerly on a line parallel to the Westerly line of Broadwell Avenue to a point One Hundred Thirty-Two Feet (132') Southeast of the South line of Second Street; thence Westerly on a line One Hundred Thirty-Two Feet (132') Southeast of and parallel to the Southerly line of Second Street to the Easterly line of Garfield Avenue; thence Northerly on the Easterly line of Garfield Avenue to a point One Hundred Thirty-Two Feet (132') Northwest of the Northerly line of Second Street; thence Easterly on a line One Hundred Thirty-Two Feet (132') Northwest of and parallel to the Northerly line of Second Street to a point Sixty-Six Feet (66') Southwest of the Westerly line of Broadwell Avenue; thence Northerly on a line Sixty-Six Feet (66') Southwest of and parallel to the Westerly line of Broadwell Avenue to the Southerly line of Union Pacific Railroad Right-of-Way; thence Easterly on the Southerly line of Union Pacific Railroad to a point Sixty-Six Feet (66') Northeast of the Easterly line of Broadwell Avenue; thence Southerly on a line Sixty-Six Feet (66') Northeast of and parallel to the Easterly line of Broadwell Avenue to a point One Hundred Thirty-Two Feet (132') Northwest of the Northerly line of Second Street; thence Easterly on a line One Hundred Thirty-Two Feet (132') Northwest of and parallel to the Northerly line of Second Street to the Westerly line of Eddy Street; thence Southeast on the Westerly line of Eddy Street to the point of beginning.

ORDINANCE NO. 9186 (Cont.)

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.

**§13-74 Special Assessments**

The real property located within the boundaries of Business Improvement District No. 6 shall be subject to special assessment as authorized by Chapter 19, Article 40, Sections 19-4015 through 19-4038, Revised Statutes of Nebraska, 1943, as amended, also known as the Business Improvement District Act.

**§13-75 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. 6 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:

The assessments shall be levied annually as the front footage of the individual real property within the district calculated as the distance between the furthest east line and the furthest west line of each parcel divided by total front footage calculated in the same fashion of all assessable property in the district times the total special assessment equals individual special assessment. The record owners of the front footages to be used in the above formula shall be the owners, as shown in the office of the Hall County Register of Deeds, in effect on the first day of January of the current year. Based upon the recommendation of the Business Improvement District Board, properties within the district not immediately adjacent to Second Street will be assessed at 0% of front footage in the first year but may receive special benefit in subsequent years for projects along side streets. 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.

ORDINANCE NO. 9186 (Cont.)

(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 \$43,800. The estimated total first-year budget by area of work is as follows:

Beautification	\$38,500
Administration and maintenance	\$ 5,300

In the subsequent four years, the maximum amount of annual assessment and annual budget for the district may be more or less than the first year assessment and budget amounts but the total budgeted assessment and expenditures will not exceed \$183,600 during the 5 year term of the District, the same being the estimated costs of all projects and maintenance requirements. The assessments levied for the first year shall not exceed \$43,800. 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 become 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.

**§13-76 Disestablishment Procedure**

ORDINANCE NO. 9186 (Cont.)

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 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.

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: September 9, 2008.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk