



# City of Grand Island

Tuesday, December 22, 2015

Council Session

## Item I-2

**#2015-347 - Consideration of Resolution for Proposed Ballot Measure for Food and Beverage Tax**

Staff Contact: Marlan Ferguson

# Council Agenda Memo

**From:** Marlan Ferguson, City Administrator

**Meeting:** December 22, 2015

**Subject:** Consideration of Resolution for Proposed Ballot Measure for Food and Beverage Tax

**Presenter:** Marlan Ferguson, City Administrator

## Background

On September 9, 2008, the City Council approved Ordinance #9189, which created a 1 1/2% tax on the sale of food and beverages to cover the construction of the Community Fieldhouse. The fieldhouse is used for indoor sports during the fall and winter months and doubles as the 4-H and FFA building during the Nebraska State Fair.

On June 30, 2009, the City Council approved Ordinance #9224 which included the use of food & beverage tax revenues to cover the cost of moving the softball/baseball and soccer fields from the Fonner Park location to the Veterans Athletic Field Complex, in order to accommodate the Nebraska State Fair.

On August 11, 2011, the City Council approved Ordinance #9315 which designated the use of the Food and Beverage tax to pay for the Nebraska State Fair support and Improvement Cash Matching Fund Pursuant to Neb. Rev. Stat. 2-108-110, and that any surplus funds would be designated for any additional voluntary payments on the City's debt as the Council shall so designate. In 2010, the 10% local match was \$311,221 and is expected to be approx. \$400,000 in 2016.

In July of 2012, LB745 became effective and requires any new occupation taxes or rate increases of existing occupation taxes for cities of the first class, be subject to voter approval.

## Discussion

The current Food and Beverage tax will terminate when the debt arising out of the construction cost for the Community Fieldhouse is paid.

It is proposed that a ballot measure be included in the May 10, 2016 primary election for the continuation and expansion of the existing 1 1/2% tax on all food and beverage,

which would commence following the termination of the current tax. The expansion of the tax includes the sale of all food and beverages presently subject to sales tax including alcohol, along with food and non-alcoholic beverages. Tax exempt sales are determined by the Nebraska Department of Revenue and include the following.

## **Tax Exempt Sales**

Sales and use taxes do not apply to the following sales of:

- ❖ Certain sales of prepared food served or sold by schools, school groups, churches, and organizations licensed by the State for the care of human beings. See Reg-1-083, Prepared Food and Beverage Service; Reg-1-090, Nonprofit Organizations; Reg-1-091, Religious Organizations; and Reg-1-092, Educational Institutions;
- ❖ Prepared food sold at political fund-raising events by ballot question committees, candidate committees, independent committees, and political party committees;
- ❖ Prepared food sold by residential facilities with communal dining rooms. For example, sales of meals to residents of a fraternity are not taxable. However, if a caterer sells meals to a fraternity, this is taxable and tax must be collected from the fraternity;
- ❖ Prepared food sold by organizations for the elderly, handicapped, or recipients of Supplemental Security Income authorized to accept electronic benefits transfer or food coupons; and
- ❖ Concession sales of prepared food when sold by elementary and secondary schools at school events.

The FY15-16 budgeted food and beverage tax revenue is \$1,631,847 and has been forecasted by the Nebraska Department of Revenue that the addition of alcohol will increase revenue by 10-15%.

The proposed new tax, which is shared by residents and all who visit Grand Island to dine and drink, will allow the City of Grand Island to invest in projects, programs and events that are important to our families and will attract more visitors to Grand Island.

Any ballot measure for voter consideration in the 2016 primary election needs to be submitted to the Hall County Election Office no later than March 21, 2016. A resolution approved by the City Council is required prior to the submittal of a ballot measure.

## **Alternatives**

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

1. Move to approve.
2. Refer the topic back to City Staff.
3. Postpone the topic to future date.
4. Take no action on the topic.

## **Recommendation**

City Administration recommends that Council approve Resolution 2015-347 authorizing a one and one half percent (1 1/2%) food and beverage tax measure to be placed on the May 10, 2016 primary election ballot and that the ballot language, in the resolution, designate how the proceeds of the tax would be expended.

## **Sample Motion**

Move to approve Resolution 2015-347 for placing the continuation and expansion of the Occupation Tax on Food and Beverage on the May 10, 2016 primary ballot.

RESOLUTION 2015-347

WHEREAS, the Mayor and City Council of the City of Grand Island have expressed their desire to continue and expand an occupation tax of one and one half percent (1 ½%) on all food and beverages; and

WHEREAS, the Mayor and City Council wish to place this issue before the voters of the City of Grand Island, Nebraska for their decision at the next regular scheduled primary election to be held on May 10, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the following question be submitted to the qualified electors of the City of Grand Island at the next regular scheduled primary election to be held within the City on May 10, 2016:

“Shall the City of Grand Island impose an occupation tax of one and one half percent (1½%) on the sale of all food and beverages presently subject to sales tax in commercial establishments in the City of Grand Island, which occupation tax shall be imposed pursuant to Nebraska Statutes Sections 16-205 and 18-1208?”

Additional information about the proposed Occupation Tax:

The proceeds from this tax shall be used for the following community enhancements:

The annual financial commitment to the Nebraska State Fair as required by state law;

Promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island;

Ongoing enhancement and development of recreation and athletic facilities such as hike, bike and recreational trails, ball fields and other community activity needs;

Invest in community development projects and activities that stimulate progress and growth for Grand Island.

The City shall be entitled to finance any of the above projects through the acquisition of debt including but not limited to bonds.

The City of Grand Island shall be authorized to impose the occupation tax until repealed by the Grand Island City Council or the voters of Grand Island conditioned on the payment of outstanding debt incurred for the uses detailed above.

Approved as to Form    ✕ \_\_\_\_\_  
December 18, 2015      ✕ City Attorney

— FOR said proposal  
— AGAINST said proposal

BE IT FUTHER RESOLVED that the City Clerk is authorized and directed to certify at least fifty days prior to the election a copy of this result to the Hall County Election Commissioner, who shall conduct the election as provided by law.

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Adopted by the City Council of the City of Grand Island, Nebraska, December 22, 2015.

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Jeremy L. Jensen, Mayor

Attest:

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Nicki Stoltenberg  
Assistant to the City Administrator

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