



City of Grand Island

Tuesday, January 10, 2012




Council Session

Item C2

Presentation on Street Improvement District No. 1256 - Capital Avenue Widening; Moores Creek Drain to Webb Road Assessment Methods

Staff Contact: John Collins, Public Works Director




Street Improvement District No. 1256 Capital Avenue Widening – Moore's Creek Drain to Webb Road Timeline

-  January 5, 1967 – Special Assessment Manual developed for Street Improvement Districts
-  July 15, 2005 – Ordinance No. 8985 was approved to create Street Improvement District No. 1256
-  August 8, 2006 – Resolution No. 2006-219 approved continuation of Street Improvement District No. 1256

Street Improvement District No. 1256

Capital Avenue Widening –

Moore's Creek Drain to Webb Road Timeline (cont.)

-  May 13, 2008 – Resolution No. 2008-122 awarded the construction bid to The Diamond Engineering Company in the amount of \$3,365,842.25
-  August 26, 2008 – Resolution No. 2008-231 corrected the contract bid award to The Diamond Construction Company to the amount of \$3,379,328.25 (mathematical errors were found in the contractor's bid document – total quantity amounts were incorrectly computed)
-  November 8, 2011 – Resolution No. 2011-336 approved Certificate of Final Completion with The Diamond Engineering Company and scheduled the Board of Equalization for this project on December 20, 2011

SPECIAL ASSESSMENT MANUAL
FOR
STREET IMPROVEMENT DISTRICTS
CITY OF GRAND ISLAND
GRAND ISLAND, NEBRASKA
JANUARY 5, 1967

** ENGINEERING DEPARTMENT

ALFRED E. RASMUSSEN, P.E.
DIRECTOR OF PUBLIC WORKS

STANDARD ASSESMENT PROCEDURES
STREET IMPROVEMENT DISTRICTS
CITY OF GRAND ISLAND, NEBRASKA
ENGINEERING DEPARTMENT

GENERAL

These assessment methods and procedures are presented as guidelines for determining special assessments on street improvement districts in the City of Grand Island in accordance with all appropriate State Statutes. No attempt will be made herein to define all procedures from the establishment of the improvement district through the issuance of bonds, but instead we are concerned here chiefly with the mathematical procedures involved in the computation of individual assessments.

STATUTORY REQUIREMENTS FOR MAKING ASSESSMENTS

Section 16-622 provides that, "The cost of paving.....shall be assessed upon the lots and lands in such districts specially benefited thereby in proportion to such benefits. The amounts thereof shall be determined by the mayor and council....."

Section 16-635 provides that, "The word lot as used herein shall be taken to mean lot as described and designated upon the record plat of any such city; and in case there is no recorded plat of any such city, it shall mean a lot as described and designated upon any generally recognized map of any such city. The word land shall mean any subdivided real estate; Provided, if the lots and real estate abutting upon that part of the street ordered paved, repaved, graveled or macadamized, as shown upon any recorded plat or map, are not of uniform depth, or, if for any reason, it shall appear just and proper to the mayor and council, they are authorized and empowered to determine and establish the depth to which such real estate shall be charged and assessed with the costs of the improvement, which shall be determined and established according to the benefits accruing to the property by reason of such improvements. Real estate may be so charged and assessed to a greater depth than lots as shown on any such plat or map."

According to the above provisions it is the duty of the City Council to determine the extent of the area to be assessed and the benefits, or special assessments, which the various tracts receive. Normal procedure, however, is for the City Engineer to define the assessable area and to calculate the special assessments (benefits) with these then being reviewed and approved by the City Council.

CRITERIA FOR DETERMINING BENEFITS TO PROPERTY

Although each district must be reviewed individually, the same basic principles are generally used in each case. The assessable area, or district boundary, is usually established by including all property which extends back from the improved street half way to the next parallel street. Recognizing that it is difficult to show benefit to property a great distance back from the street it is our policy to use 300 feet as the maximum limit for this distance.

The theory of assessing each individual lot or tract is that the cost will be spread according to the frontage on the improved street and that the benefits or assessments will decrease as the distance of the land from the street increases. Such a variance in proportion to the distance back should decrease for every increment of distance and the benefits for property nearer the street should be proportionately greater than those for property further away. To make this workable it is necessary to develop a curve which will indicate the relative benefits for all property involved.

In order to develop such a curve various methods used by other engineers were studied, including the previous method used in Grand Island. This previous method utilized a "zone" system whereby, for example, the 11 feet of a property nearest the street would be assessed the same amount as the next 11 feet, provided the frontage was identical. Since the assessment is equal to benefit it is difficult to prove that property further away from the street receives the same benefit as the closer property. Therefore, for comparison purposes, the previous method was converted to curve form. All of these various methods were then plotted on a large-scale graph with distance from the street plotted against the relative benefits. From this it was obvious that the previous method used in Grand Island varied considerably from all other methods, the main difference being that a greater proportion of the benefits were allotted to property further away from the street.

To develop a new curve for reasonable benefits it was decided that it should be based on the assessment being cut in half for each 60-foot increment back from the improved street. This translated into an equation becomes:

$$F = 2 - 2^a;$$

$$\text{where "a"} = \left[\frac{60 - Y}{60} \right];$$

where "y" = the perpendicular distance
from the improved street
to the property boundary
line ;

and where "F" = the assessment factor for "y" depth.

The percentage value is then determined by assuming that the assessment factor for y = 300 is 100 percent.

This equation (using percentage instead of actual assessment factor) in graph form is presented on Plate I and in tabular form on Plate II. The values in the tabular form were actually calculated and were not merely extracted from the graph. The actual assessment calculations are made as follows:

1. To determine the assessment factor (percentage) for a rectangular lot abutting on the street, select the percentage value corresponding to the lot depth (distance), interpolating when necessary.
2. To determine the assessment factor (percentage) for a rectangular lot not abutting on the street, subtract the percentage value for the intervening depth, from the improved street to the front side of the lot, from the percentage value for the entire depth from the improved street.
3. Multiply the assessment factor obtained by the frontage of the property, which will result in a certain number of "points" for the selected property.
4. When the "points" for each tract of land in the assessment district have been determined, add them all together to determine the total number of points in the district.

5. The cost of the improvements is then divided by the total number of "points" to obtain the value per point, which is then spread back over each individual property.

In the case of irregular lots it is necessary to divide the area into rectangles or triangles requiring several computations to determine the full assessment. There are four possible positions for triangular figures:

- (1) With the base along the street.
- (2) With the base toward the street but at some distance from the street.
- (3) With the vertex on the street.
- (4) With the vertex toward but at some distance from the street.

In the first two cases, the parcels are considered as rectangles with the same depth as for the triangular figure, but with a frontage equal to two-thirds the length of the original base. In cases 3 and 4, the parcels are considered as rectangles with the same depths as the triangular parcels but with the base to be assessed as frontage equal to one-third the length of the original base. These methods are illustrated on Plate III.

Plates IV and V are included to illustrate an assessment problem.

DEVIATIONS FROM STANDARD METHOD

While the standard method described above can be used in most instances, there are certain cases where deviation may be appropriate. The assessments arrived at by the standard method must still be reviewed by the engineer to satisfy himself that similar properties have similar assessments and that properties that are dissimilar nevertheless have assessments that are reasonably in proportion. When this test is not satisfied, the method must be adjusted until fair assessments and proper benefits are derived.

In cases where a tier of lots of equal depth abut upon the improved street and make up the entire district, assessments may be computed using frontage only since there is no purpose in computing "points". This can also be done where the variance in depth on each side of the street is not great and it can be assumed that half the cost is attributable to each side of the street.

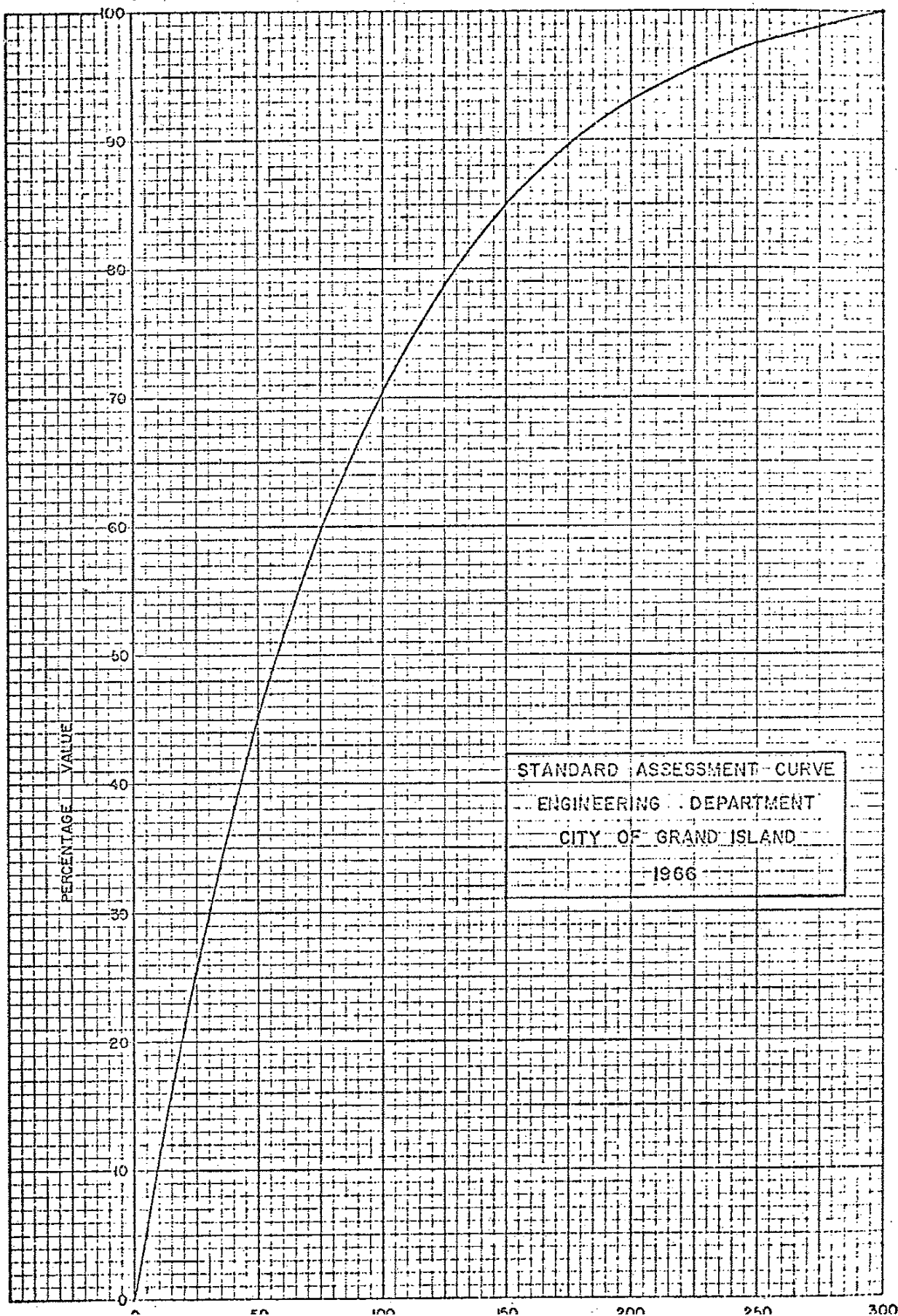
When the calculated benefits do not appear to be reasonable it is also possible to spread a portion of the costs to front footage and the remainder to area. Usually the assessments are calculated with 50 percent based on area and 50 percent on frontage, but this may be varied to arrive at a reasonable schedule.

CONCLUSIONS

Each street improvement district is usually different in some way from previous districts. For this reason it is difficult to set one rule for all assessments and never allow deviation. Properties must be assessed according to benefits derived and this fact must not be ignored just to satisfy a mathematical procedure. We can only use our best judgement and experience to spread assessments and we must always satisfy ourselves that the benefits exist. Even when this is done it will still be necessary for us to justify the assessments and to explain these methods whenever necessary.

EUGENE DIETRZEN CO.
MADE IN U. S. A.

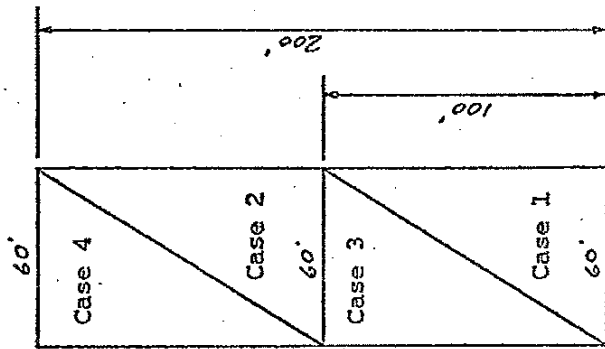
NO. 34UR-10 DIETRZEN GRAPH PAPER
10 X 10 PER INCH



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PAVEMENT ASSESSMENT SCHEDULE
-September 1967-

Dist.	%	Dist.	%	Dist.	%	Dist.	%	Dist.	%	Dist.	%
1.	1.1	51.	45.9	101.	71.1	151.	85.2	201.	93.1	251.	97.5
2.	2.3	52.	46.7	102.	71.5	152.	85.4	202.	93.2	252.	97.6
3.	3.5	53.	47.3	103.	71.8	153.	85.6	203.	93.3	253.	97.7
4.	4.6	54.	47.9	104.	72.2	154.	85.8	204.	93.4	254.	97.8
5.	5.7	55.	48.6	105.	72.5	155.	86.0	205.	93.6	255.	97.8
6.	6.9	56.	49.2	106.	72.9	156.	86.2	206.	93.6	256.	97.9
7.	8.1	57.	49.8	107.	73.2	157.	86.4	207.	93.8	257.	97.9
8.	9.1	58.	50.4	108.	73.6	158.	86.6	208.	93.9	258.	98.0
9.	10.2	59.	51.0	109.	73.9	159.	86.8	209.	94.0	259.	98.0
10.	11.3	60.	51.6	110.	74.3	160.	87.0	210.	94.1	260.	98.1
11.	12.3	61.	52.2	111.	74.6	161.	87.1	211.	94.2	261.	98.2
12.	13.3	62.	52.7	112.	74.9	162.	87.3	212.	94.3	262.	98.2
13.	14.3	63.	53.4	113.	75.2	163.	87.5	213.	94.4	263.	98.3
14.	15.4	64.	53.9	114.	75.6	164.	87.7	214.	94.6	264.	98.3
15.	16.4	65.	54.5	115.	75.9	165.	87.8	215.	94.6	265.	98.4
16.	17.4	66.	55.0	116.	76.2	166.	88.1	216.	94.7	266.	98.4
17.	18.3	67.	55.6	117.	76.5	167.	88.2	217.	94.8	267.	98.5
18.	19.4	68.	56.2	118.	76.9	168.	88.4	218.	94.9	268.	98.5
19.	20.4	69.	56.7	119.	77.1	169.	88.6	219.	95.0	269.	98.6
20.	21.3	70.	57.3	120.	77.4	170.	88.7	220.	95.1	270.	98.7
21.	22.2	71.	57.8	121.	77.7	171.	88.9	221.	95.2	271.	98.7
22.	23.1	72.	58.3	122.	78.0	172.	89.1	222.	95.3	272.	98.8
23.	24.0	73.	58.8	123.	78.3	173.	89.2	223.	95.4	273.	98.8
24.	25.0	74.	59.3	124.	78.6	174.	89.4	224.	95.4	274.	98.9
25.	25.9	75.	59.8	125.	78.9	175.	89.5	225.	95.5	275.	98.9
26.	26.7	76.	60.3	126.	79.1	176.	89.7	226.	95.6	276.	99.0
27.	27.6	77.	60.8	127.	79.4	177.	89.9	227.	95.7	277.	99.0
28.	28.5	78.	61.3	128.	79.7	178.	90.0	228.	95.8	278.	99.1
29.	29.3	79.	61.8	129.	79.9	179.	90.2	229.	95.9	279.	99.1
30.	30.2	80.	62.2	130.	80.2	180.	90.3	230.	95.9	280.	99.2
31.	31.1	81.	62.7	131.	80.5	181.	90.5	231.	96.1	281.	99.2
32.	31.9	82.	63.2	132.	80.8	182.	90.6	232.	96.2	282.	99.3
33.	32.7	83.	63.6	133.	81.0	183.	90.7	233.	96.2	283.	99.3
34.	33.5	84.	64.1	134.	81.3	184.	90.9	234.	96.3	284.	99.3
35.	34.3	85.	64.6	135.	81.5	185.	91.0	235.	96.4	285.	99.4
36.	35.1	86.	65.0	136.	81.8	186.	91.1	236.	96.5	286.	99.4
37.	35.9	87.	65.4	137.	82.0	187.	91.3	237.	96.5	287.	99.5
38.	36.6	88.	65.9	138.	82.2	188.	91.5	238.	96.6	288.	99.5
39.	37.5	89.	66.3	139.	82.5	189.	91.6	239.	96.7	289.	99.6
40.	38.2	90.	66.7	140.	82.7	190.	91.8	240.	96.8	290.	99.6
41.	38.9	91.	67.2	141.	83.0	191.	91.9	241.	96.8	291.	99.6
42.	39.7	92.	67.6	142.	83.2	192.	92.0	242.	96.9	292.	99.7
43.	40.4	93.	68.0	143.	83.5	193.	92.1	243.	97.0	293.	99.7
44.	41.1	94.	68.4	144.	83.7	194.	92.2	244.	97.1	294.	99.8
45.	41.9	95.	68.7	145.	83.9	195.	92.4	245.	97.1	295.	99.8
46.	42.6	96.	69.2	146.	84.1	196.	92.5	246.	97.2	296.	99.8
47.	43.3	97.	69.6	147.	84.3	197.	92.6	247.	97.2	297.	99.9
48.	43.9	98.	70.0	148.	84.5	198.	92.7	248.	97.3	298.	99.9
49.	44.6	99.	70.3	149.	84.8	199.	92.9	249.	97.4	299.	99.9
50.	45.3	100.	70.7	150.	85.0	200.	93.0	250.	97.5	300.	100.0



Street

DETERMINATION OF POINTS: (100' = 70.7%: 200' = 93.0%)

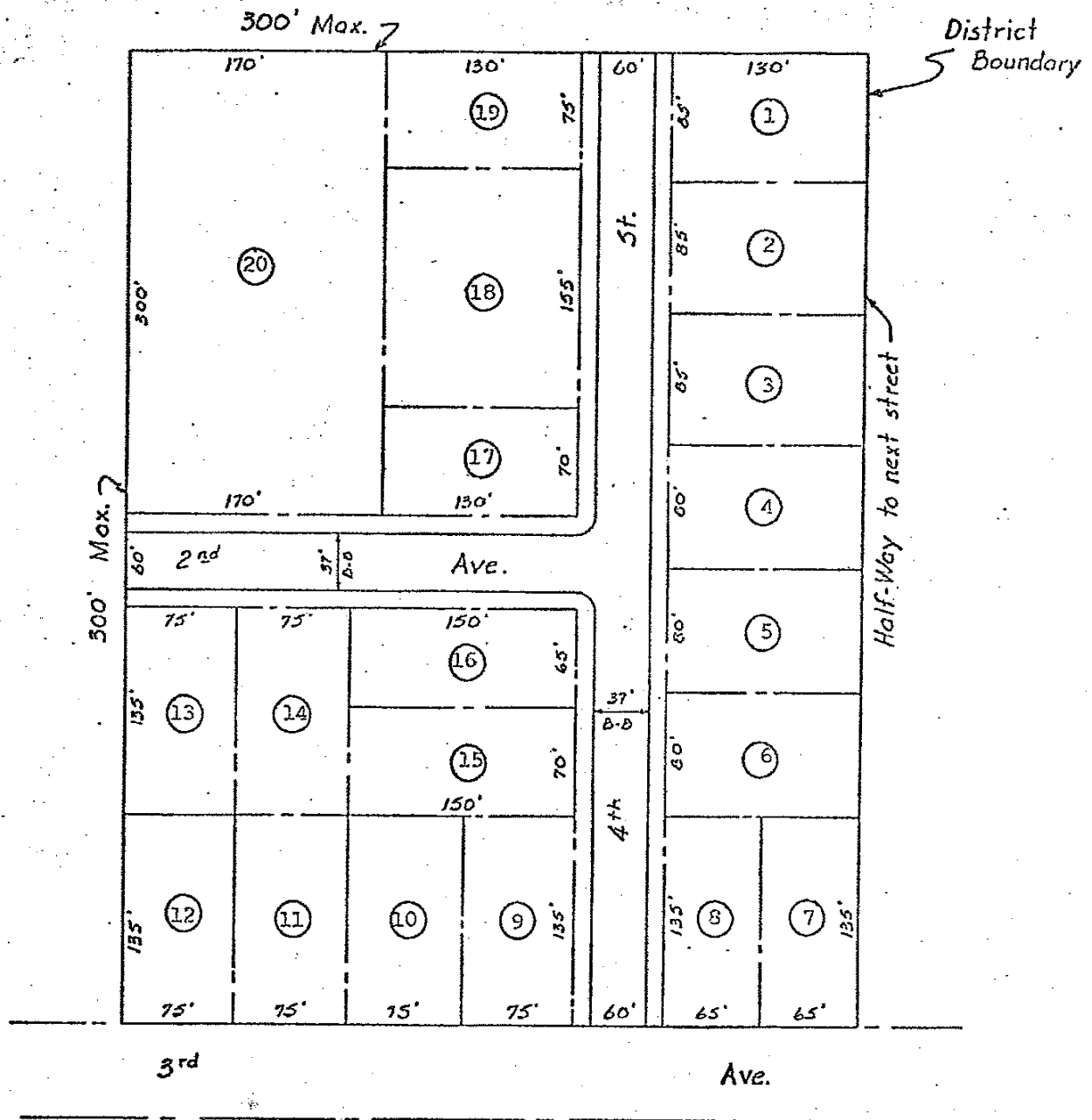
Case 1 -- Frontage = $2/3 \times 60 = 40'$
 $40 \times 70.7 = \underline{2828 \text{ Points}}$

Case 3 -- Frontage = $1/3 \times 60 = 20'$
 $20 \times 70.7 = \underline{1414 \text{ Points}}$

Case 2 -- Frontage = $2/3 \times 60 = 40'$
 $40 \times (93.0 - 70.7)$
 $= 40 \times 22.3 = \underline{892 \text{ Points}}$

Case 4 -- Frontage = $1/3 \times 60 = 20'$
 $20 \times (93.0 - 70.7)$
 $= 20 \times 22.3 = \underline{446 \text{ Points}}$

ASSESSMENT CALCULATIONS
 FOR TRIANGLES
 ENGINEERING DEPARTMENT
 CITY OF GRAND ISLAND
 1915



TYPICAL STREET IMPROVEMENT DISTRICT

CITY OF GRAND ISLAND, NEBRASKA

ENGINEERING DEPARTMENT

1966

Assume Cost of Improvements = \$20,000

\$0.1234736

Corrected 1971

Tract No.	2nd Addition				1st Addition				Assessment	
	Frontage Feet	Depth in Feet	Percent Value	Points (Frontage x %)	Frontage Feet	Depth in Feet	Percent Value	Points (Frontage x %)		
1					85	130	80.2	6,817	6,817	841.72
2					85	130	80.2	6,817	6,817	841.72
3					85	130	80.2	6,817	6,817	841.72
4					80	130	80.2	6,416	6,416	792.21
5					80	130	80.2	6,416	6,416	792.21
6					80	130	80.2	6,416	6,416	792.21
7					135	130	80.2	6,416	6,416	792.21
8					135	65	54.5	3,470	3,470	428.45
9					135	75	53.8	7,358	7,358	903.52
10					135	150 - 75	85.0 - 59.5	8,073	8,073	993.80
11					135	225 - 150	93.5 - 85.0	3,402	3,402	420.06
12					135	300 - 225	100.0 - 93.5	1,418	1,418	175.08
13	75	135	81.5	6,112	135	135	80.2	608	608	75.07
14	75	135	81.5	6,112	135	135	80.2	608	608	839.74
15	150	135 - 65	81.5 - 54.5	4,050	70	150	83.0	7,530	7,530	929.76
16	150	65	54.5	8,175	65	150	85.0	5,950	10,000	1,234.74
17	130	70	57.3	7,449	70	130	80.2	5,525	13,700	1,091.59
18	130	225 - 70	95.5 - 57.3	4,966	155	130	80.2	5,634	13,063	1,612.94
19	130	300 - 225	100.0 - 91.5	17,000	300	130	80.2	6,015	17,397	2,148.07
20	170	300	100.0	17,000	300	130	80.2	6,015	6,600	814.93

OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING
July 12, 2005

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on July 12, 2005. Notice of the meeting was given in the *Grand Island Independent* on July 6, 2005.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase. The following City Officials were present: City Administrator Gary Greer, City Clerk RaNae Edwards, Finance Director David Springer, Public Works Director Steve Riehle, and City Attorney Doug Walker.

INVOCATION was given by Councilmember Jackie Pielstick followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek commented on Grand Island's 10th Annual "National Night Out" to be held on August 2, 2005 and encouraged neighborhoods to participate. The Mayor thanked the citizens of Grand Island who took part in the many cleanups offered by the City of Grand Island this spring.

PUBLIC HEARINGS:

Public Hearing on Acquisition of Tracts of Right-of-Way and Permanent Easements along Capital Avenue between the Moores Creek Drain and Webb Road for Street Widening Project. Steve Riehle, Public Works Director reported that acquisition of right-of-way and permanent easements were required in conjunction with the widening project along Capital Avenue from the Moores Creek Drainway (located west of the Dairy Queen) to Webb Road. No public testimony was heard.

ORDINANCES:

#8982 – Consideration of Annexation of Land Located North of Capital Avenue and East of St. Paul Road and Various Properties Adjacent to the City of Grand Island. (Second Reading)

Chad Nabity, Regional Planning Director reported this related to the Public Hearing held on June 28, 2005, and was the second of three readings as required by state statutes.

Motion by Pielstick, second by Walker to approve Ordinance #8982 on second reading only. Upon roll call vote, all voted aye. Motion adopted.

Councilmember Pielstick moved "that the statutory rules requiring ordinances to be read by title on three different days be suspended and that ordinances numbered:

#8985 – Consideration of Creation of Street Improvement District No. 1256, Widening of Capital Avenue from the Moores Creek Drain to Webb Road

#8986 – Consideration of Lease-Purchase Agreement with the Grand Island Facilities Corporation and Authorizing the Execution of Documents for the Library Expansion

#8987 – Consideration of Proposed Water Rate Increase

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of these ordinances on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Whitesides seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Steve Richie, Public Works Director reported that Ordinance #8985 was to create Street Improvement District No. 1256. The proposed district would consist of widening Capital Avenue from the Moores Creek Drain to Webb Road and was an upgrade to a multi-lane concrete curb and gutter roadway with storm sewer. A width of 41' or no more than 20% would be assessed to benefiting properties, with the remainder paid with federal funds. A ten (10) year assessment period was recommended.

Doug Walker, City Attorney reported that Ordinance #8986 would authorize the City to enter into a lease purchase agreement with the Grand Island Facilities Corporation and enable the city to proceed with securing a tax exempt status and bonding for the library expansion.

Motion by Pielstick, second by Hornady to approve Ordinances #8985 and #8986.

City Clerk: Ordinances #8985 and #8986 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinances #8985 and #8986 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #8985 and #8986 are declared to be lawfully adopted upon publication as required by law.

#8987 (Proposal A) – Consideration of Proposed Water Rate Increase

Gary Mader, Utilities Director explained Ordinance #8987 with regards to the three proposals for water rate increase. Virgil Harden, Director of Business at the Grand Island Public School spoke

concerning the financial effect to the school and asked that an increase be phased in over two to three years.

Motion by Whitesides, second by Pielstick to approve Ordinance #8987 (Proposal A). A lengthy discussion was had by council on each of the proposals.

Motion by Whitesides, second by Meyer to move the previous question. Upon roll call vote, Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Walker, and Haase voted yes. Councilmember Hornady voted no. Motion adopted.

City Clerk: Ordinance #8987 (Proposal A) on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, Councilmember's Meyer, Whitesides, Pielstick, Pauly, Walker, and Haase voted aye. Councilmember's Gilbert, Nickerson, Cornelius, and Hornady voted no. Motion adopted.

City Clerk: Ordinance #8987 (Proposal A) on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, Councilmember's Meyer, Whitesides, Pielstick, Pauly, Walker, and Haase voted aye. Councilmember's Gilbert, Nickerson, Cornelius, and Hornady voted no. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #8987 (Proposal A) is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: It was noted that item G-4 was pulled from the agenda to the July 26, 2005 meeting. Motion by Hornady, second by Cornelius to approve the Consent Agenda excluding item G-4. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of June 28, 2005 City Council Regular Meeting.

Approving Minutes of July 5, 2005 City Council Study Session. Councilmember Pauly abstained.

Approving Appointments of Mary Webb, Richard Willis, Holger Honore, and Mike Wenzl to the Building Code Advisory Board.

Approving Appointments of Bill Lawrey and Jeff Reed to the Business Improvement District #3 Board. This item was pulled to the July 26, 2005 City Council meeting.

Approving Garbage Haulers License for Heartland Disposal, 2423 W. Old Lincoln Highway. Councilmember's Meyer, Whitesides, and Pielstick voted no.

Approving Preliminary Plat for Westgate Ninth Subdivision.

#2005-194 – Approving Final Plat and Subdivision Agreement for Westgate Ninth Subdivision. It was noted that E. Marsden and Jacquelyn Garey, owners had submitted the final plat for Westgate Ninth Subdivision located on 9.07 acres of land for the purpose of creating 9 lots.

#2005-195 – Approving Final Plat and Subdivision Agreement for Jakubowski Subdivision. It was noted that Paul and Ruby Jakubowski, Kevin and Diane McDermott, owners had submitted the final plat for Jakubowski Subdivision for the purpose to divide an existing lot with 2 houses on it into two lots.

#2005-196 – Approving Acquisition of Tracts of Right-of-Way and Permanent Easements along Capital Avenue between the Moores Creek Drain and Webb Road for Street Widening Project.

#2005-197 – Approving Agreement with Natural Resources Conservation Service (NRCS) for Flood Damage Repair Work, Ditch Repair East of North Road and Coffey Dam Repair along Capital Avenue.

#2005-198 – Approving Bid Award for One Dome Salt Storage Building with Bulk Storage Inc. of Beecher, Illinois in an Amount of \$108,300.00.

#2005-199 – Approving Amendment to the City's Full Time Equivalent (FTE) Employee Table for the Solid Waste Division of the Public Works Department.

#2005-200 – Approving Bid Award for Fuel Oil Facility Paying Contract 2005-PGS-P-1 at the Platte Generating Station with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$96,461.82.

#2005-201 – Approving Agreement for Warranty Deed with Melvin & Jo Ann Meyer and J.J. Lake, L.L.C for Property Located at 244 and 304 Stuhr Road in an Amount of \$583,900.00.

#2005-202 – Approving Acquisition of Long Term Lease Agreement with Robert Ramold for Property located at 1212 West Second Street in an Amount of \$84,500.00.

#2005-203 – Approving Paul Briseno as Authorized Representative for Federal/State Financial Assistance under the President's Disaster Relief Fund.

REQUESTS AND REFERRALS:

Approving the Appointment of Lela Lowry as Emergency Management Director. Brenda Sutherland, Human Resources Director reported that 18 applicants were interested in the position of Emergency Management Director with five being interviewed by the selection committee. The two finalists (Lela Lowry and Andrew Hills) were present at a meet & greet session that was open to the public as part of the selection process.

The Mayor was recommending the appointment of Lela Lowry. She had been offered the position pending Council approval and had accepted pay grade step 4 in the amount of

\$56,086.19. She would be able to start August 1, 2005. Ms. Lowry was present and stated she looked forward to working in Grand Island as the Emergency Management Director.

Motion by Whitesides, second by Pielstick to approve the appointment of Lola Lowry as Emergency Management Director. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Hornady to approve the Claims for the period of June 29, 2005 through July 12, 2005, for a total amount of \$1,564,457.32. Motion adopted unanimously. Councilmember Pielstick abstained from claim #102811.

ADJOURNMENT: The meeting was adjourned at 8:05 p.m.

RaNae Edwards

RaNae Edwards
City Clerk

Entered on numerical Index and recorded on	
<u>July 13</u> , 20 <u>05</u>	
at	<u>1:58 P</u> M. as instrument
No.	<u>200506435</u>
<u>Kathy Baasch</u> Register of Deeds Hall County, Nebraska	

• This Space Reserved for Register of Deeds •

ORDINANCE NO. 8985

An ordinance to create Street Improvement District No. 1256; to define the boundaries of the district; to provide for the improvement of a street within the district by paving, curbing, guttering, storm drainage, sidewalks, and other incidental work in connection therewith; to provide for the filing of this ordinance with the Hall County Register of Deeds; and to provide the publication and effective date of this ordinance.

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

SECTION 1. Street Improvement District No. 1256 in the City of Grand Island, Nebraska, is hereby created.

SECTION 2. The boundaries of the district shall be as follows:

Beginning at the northeast corner of Section 12-11-10; thence south on the east line of Section 12-11-10 for a distance of Three Hundred Forty (340.0) feet; thence west on a line Three Hundred Forty (340.0) feet south of and parallel to the north line of Section 12-11-10 to a point Eighty (80.0) feet west of the west line of the Northeast Quarter of Section 12-11-10; thence north on a line Eighty (80.0) feet west of and parallel to the west line of the Northeast Quarter of Section 12-11-10 and the Southeast Quarter of Section 1-11-10 for a distance of Six Hundred Eighty (680.0) feet; thence east on a line Three Hundred Forty (340.0) north of

Approved as to Form	<input checked="" type="checkbox"/> <u>DRW</u>
July 7, 2005	<input checked="" type="checkbox"/> City Attorney

ORDINANCE NO. 8985 (Cont.)

and parallel to the south line of Section 1-11-10 to a point on the east line of Saint Patrick Avenue; thence south on the east line of Saint Patrick Avenue to a point Two Hundred Seventy Four and Twenty Three Hundredths (274.23) feet north of the north line of Capital Avenue; thence east on a line Two Hundred Seventy Four and Twenty Three Hundredths (274.23) feet north of and parallel to the north line of Capital Avenue to the east line of Lemke Subdivision; thence north on the east line of Lemke Subdivision to a point Three Hundred Forty (340.0) feet north of the south line of Section 1-11-10; thence east on a line Three Hundred Forty (340.0) feet north of and parallel to the south line of Section 1-11-10 to the east line of Section 1-11-10; thence south on the east line of Section 1-11-10 for a distance of Three Hundred Forty (340.0) feet to the point of beginning, as shown on the plat dated June 27, 2005, marked Exhibit 'A', attached hereto and incorporated herein by reference.

SECTION 3. The following street in the district shall be improved by paving and other incidental work in connection therewith:

Capital Avenue, from the Moore's Creek Drainway east to Webb Road in the City of Grand Island, Hall County, Nebraska.

Said improvements shall be made in accordance with plans and specifications approved by the Engineer for the City of Grand Island.

SECTION 4. All improvements shall be made at public cost, but the cost thereof shall be assessed upon the lots and lands in the district specially benefited thereby as provided by law.

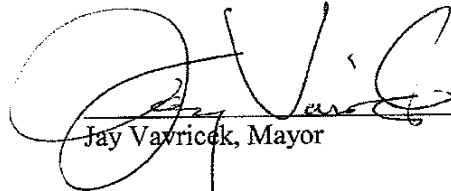
SECTION 5. This ordinance, with the plat, is hereby directed to be filed in the office of the Register of Deeds, Hall County, Nebraska.

SECTION 6. This ordinance shall be in force and take effect from and after its passage and publication, without the plat, as provided by law.

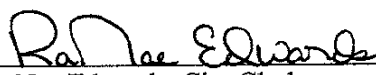
SECTION 7. After passage, approval and publication of this ordinance, without the plat, notice of the creation of said district shall be published in the Grand Island Independent, a legal newspaper published and of general circulation in said City, as provided by law.

ORDINANCE NO. 8985 (Cont.)

Enacted: July 12, 2005.


Jay Vavricek, Mayor

Attest:

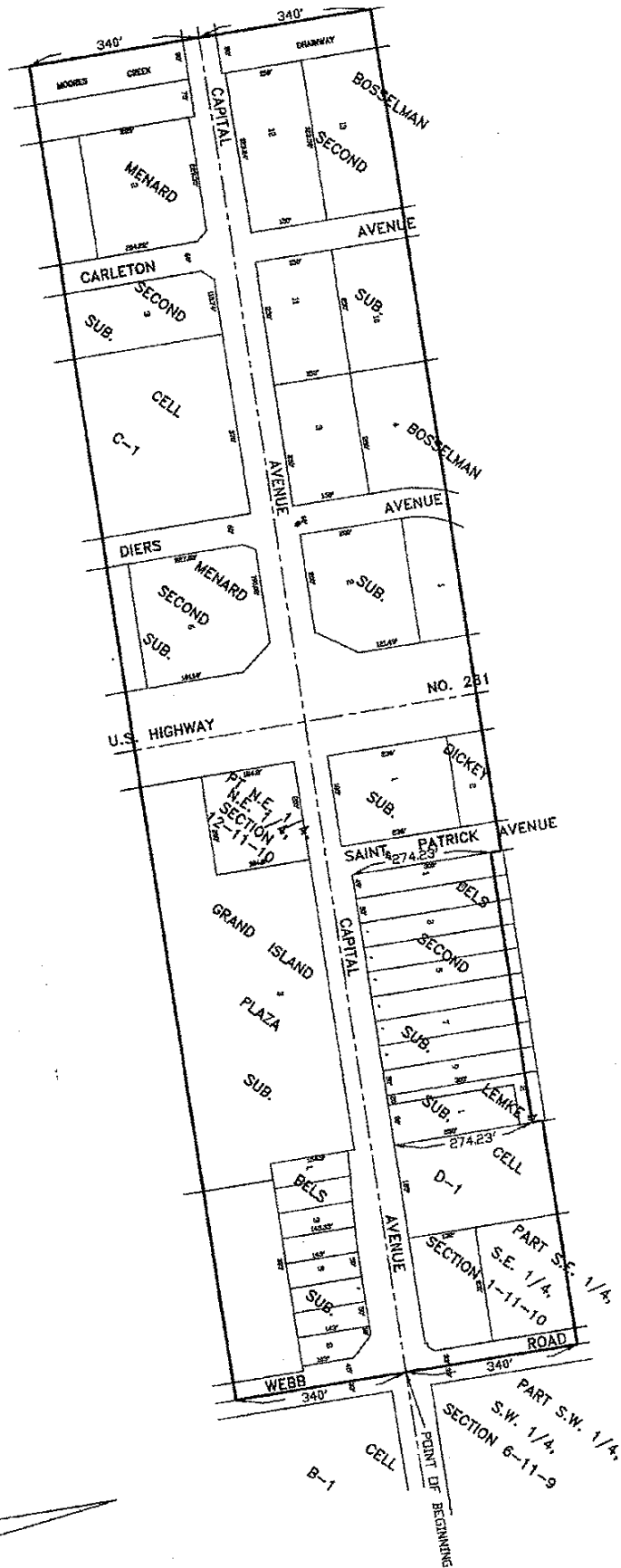

RaNae Edwards, City Clerk



STREET IMPROVEMENT DISTRICT 1256

EXHIBIT "A"

SEAL OF THE DISTRICT OF COLUMBIA
PLAT TO ACCOMPANY ORDINANCE
NO. 8985
SCALE 1" = 200' L.D.C. 6/27/05



OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

August 8, 2006

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on August 8, 2006. Notice of the meeting was given in *The Grand Island Independent* on August 2, 2006.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase. The following City Officials were present: City Administrator Gary Groer, City Clerk RaNae Edwards, Finance Director David Springer, Public Works Director Steve Riehle, and Interim City Attorney Dale Shotkoski.

INVOCATION was given by Pastor George Oxford, First Church of the Nazarene, 1022 West 6th Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek recognized Community Youth Council Member Paul Hansen. Mentioned was the upcoming Hall County Fair and events that would take place at the Heartland Events Center for the first time. Also mentioned was the events scheduled for the Heartland Shooting Park this month.

PRESENTATIONS AND PROCLAMATIONS:

Presentation of the Community Redevelopment Authority (CRA) Budget: Chad Nabity, Regional Planning Director presented the 2006-2007 Community Redevelopment Authority (CRA) budget. CRA requested property tax revenues of \$492,540.00. Mr. Nabity explained there were five designated Blighted and Substandard Areas within the Grand Island City Limits and they were currently studying a sixth area including Five Points, Eddy Street, Broadwell Avenue and 2nd Street West.

ADJOURN TO BOARD OF EQUALIZATION: Motion by Pielstick, second by Hornady, carried unanimously to adjourn to the Board of Equalization.

#2006-BE-5 - Consideration of Determining Benefits for water Main District No. 450 (Circle Drive Area): Gary Mader, Utilities Director reported that Water Main District No. 450 was created at the request of the property owner on the east side of Circle Drive, and along Sunny Brooke Road and Stewart Drive. The cost to be assessed was \$114,849.54.

Motion by Hornady, second by Whitesides to approve Resolution #2006-BE-5. Upon roll call vote, all voted aye. Motion adopted.

#2006-BE-6 -- Consideration of Determining Benefits for Water Main District No. 451 (Circle Drive Area). Gary Mader, Utilities Director reported that Water Main District No. 451 was created at the request of the property owner on the east side of Circle Drive, and along Sunny Brooke Road and Stewart Drive. The cost to be assessed was \$99,945.50. Cindy Jarson, 2811 Circle Drive requested the assessment on her property compared to her neighbors. Gary Mader explained the process of assessing the property for this district.

Motion by Hornady, second by Whitesides to approve Resolution #2006-BE-6. Upon roll call, all voted aye. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Pielstick, second by Whitesides, carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request of CXT/LB Foster for Conditional Use Permit to Extend the Temporary Use of Office Trailers Located at 710 East US Highway 30 Craig Lewis, Building Department Director reported that the CXT/LB Foster Company had requested an extension to their Conditional Use Permit for an additional 12 month period of time to allow for the continued use of two temporary buildings located at 710 East US Highway 30. Mr. Lewis stated the first approval was granted on July 24, 2000 for two years with additional approvals granted every two years thereafter. Staff recommended approval for a 12 month period of time. No public testimony was heard.

Public Hearing on Acquisition of Public Utilities Easement Located Along 1149 South Stuhr Road. (Amy Anderson) Steve Riehle, Public Works Director reported that acquisition of a public utility easement located along 1149 South Stuhr Road was needed in order to allow for the connection to a manhole on the sanitary sewer interceptor. Tom Conlon, 819 S. Stuhr Road spoke in support. No further public testimony was heard.

Public Hearing on Acquisition of Hike/Bike Easement Located at 3645 South Locust Street. (Judith K. Poland) Steve Paustian, Parks and Recreation Director reported that a utility easement was in place at 3645 South Locust Street and this request would allow for the additional use of construction and maintenance of a hike/bike trail from Hall County Park to 3645 South Locust Street. No public testimony was heard.

Public Hearing on Request of Delfino Vargas-Bernal dba Las Vegas Bar and Grill, 316 East 2nd Street for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Delfino Vargas-Bernal dba Las Vegas Bar and Grill, 316 West 2nd Street for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on July 10, 2006; notice to the general public of date, time, and place of hearing published on July 29, 2006; notice to the applicant of date, time, and place of hearing mailed on July 10, 2006; along with Chapter 4 of the City Code. Ms. Edwards stated Mr. Vargas-Bernal had completed a server/training course on July 20, 2006. Staff recommended approval contingent upon final

inspections. Jerry Janulewicz, Attorney for Delfino Vargas-Bernal spoke in support. No further public testimony was heard.

Public Hearing on Proposed FY 2006-2007 City Single Budget. David Springer, Finance Director reported that Council needed to conduct a public hearing to take information from the citizens of Grand Island on the proposed FY 2006-2007 City Single Budget. A Special Budget meeting would be held on August 15, 2006 followed by adoption of the budget and bid limit increase on August 22, 2006. No public testimony was heard.

ORDINANCES:

Councilmember Pielstick moved "that the statutory rules requiring ordinances to be read by title on three different days be suspended and that ordinances numbered:

- #9058 - Consideration of Vacating a 10' Easement on Lots One (1) and Two (2) of Summerfield Estates 6th Subdivision (Little B's Corporation)
- #9059 - Consideration of Assessments for Water Main District No. 450 (Circle Drive Area)
- #9060 - Consideration of Assessments for Water Main District No. 451 (Circle Drive Area)
- #9061 - Consideration of Approving Salary Ordinance

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of these ordinances on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Nickerson seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Steve Riehle, Public Works Director stated Ordinance #9058 would vacate a 10' easement on Lots One (1) and Two (2) of Summerfield Estates 6th Subdivision which was not needed.

Gary Mader, Utilities Director explained that Ordinances #9059 and #9060 would assess the properties for Water Main District No. 450 and 451.

Motion by Pielstick, second by Gilbert to approve Ordinances #9058, #9059, and #9060.

City Clerk: Ordinances #9058, #9059, and #9060 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinances #9058, #9059, and #9060 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9058, #9059, and #9060 are declared to be lawfully adopted upon publication as required by law.

#9061 -- Consideration of Approving Salary Ordinance

Brenda Sutherland, Human Resources Director reported that the City conducts salary surveys on various employee groups to stay within acceptable standards should the City be challenged at the Commission of Industrial Relations (C.I.R.). The non-union workforce had been surveyed every three years and was a part of this ordinance. Included in this Ordinance was an administration change to the pay out of sick leave to non-union employees at retirement which would be paid to an employee's Voluntary Employees' Beneficiary Association (VEBA) fund.

Discussion was held regarding comparability of wages and the survey process. Ms. Sutherland explained that State laws required a comparability study for employee's wages. Discussion was held regarding past Commission on Industrial Relations (CIR) rulings and procedures relating to comparability. Paul Essman, CEO of Capital City Concepts conducted the non-union survey and explained the process.

A brief discussion was held regarding the Emergency Management wages and the funding from Hall County. Ms. Sutherland explained that the increases in employee's salaries would be done in step increments. Also explained was the new evaluation system.

Questions were answered regarding the publishing of salaries for all employees. State statutes require that all ranges be published once a year. Councilmember Pielstick requested publishing the salaries after the increases were approved. It was explained that the law requires salaries to be published between July 15th and August 15th of each year.

John Gericke, 2628 O'Flanagan Street asked if those employees who were frozen would receive a raise over the next three years. Ms. Sutherland stated they would not be frozen for three years and it would depend on the comparability study. Mr. Gericke recommended a flat increase across the board as being a fair increase.

Motion by Whitesides, second by Hornady to approve Ordinance #9061.

City Clerk: Ordinance #9061 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, Councilmember's Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, and Walker voted aye. Councilmember's Meyer and Haase voted no. Motion adopted.

City Clerk: Ordinance #9061 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, Councilmember's Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, and Walker voted aye. Councilmember's Meyer and Haase voted no. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9061 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda items G-7 and G-8 were pulled for further discussion. Motion by Hornady, second by Gilbert to approve the Consent Agenda excluding items G-7 and G-8. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of July 25, 2006 City Council Regular Meeting. Councilmember Pauly abstained.

Approving Minutes of July 31, 2006 City Council Special Meeting. Councilmember Pauly abstained.

Approving Request of Fanner Park Exposition and Events Center, Inc. for Ratification of Election for Brian Hamilton, George Wanitschke, Vince Dowding, Jim Cannon, and Scott Zana to the Board of Directors.

Approving Request of Susan McAfee, 1863 7th Avenue, Dannebrog, Nebraska for Liquor Manager Designation for Pump & Pantry #3, 2511 Diers Avenue contingent upon completing an Alcohol Server Training Course.

#2006-212 - Approving Request for Subordination Agreement for 715 North White Avenue (Ronald Aguilar).

#2006-217 - Approving Request for Subordination Agreement for 1115 East 9th Street (Victor M. & Gina A. Henriquez).

#2006-220 - Approving Certificate of Final Completion for Street Improvement District No. 1257; Shanna Street in Western Heights 4th Subdivision with The Diamond Engineering Company of Grand Island, Nebraska.

#2006-221 - Approving Change Order No. 2 with Chief Construction of Grand Island, Nebraska for Law Enforcement Center for an Increase of \$2,526.30 and an Construction Contingency Amount of \$155,078.70.

#2006-222 - Approving a Time Extension to the Contract of September 15, 2006 with The Diamond Engineering Company of Grand Island, Nebraska for Construction of Street Improvement District No. 1258; Faidley Avenue Extending West for Six Hundred Fifty Feet (650 Feet).

#2006-223 - Approving Certificate of Final Completion for Water Main District No. 452 - Knott Subdivision Area and Setting September 12, 2006 for the Board of Equalization.

#2006-224 - Approving Contract for the Sale of Fly Ash from Platte Generating Station with Flatwater Materials, Inc. of Grand Island, Nebraska in an Amount of \$.76 per equivalent dry ton.

#2006-225 - Approving Acquisition of Hike/Bike Easement Located at 3645 South Locust Street (Judith K. Poland).

#2006-218 - Approving Acquisition of a Public Utilities Easement Located Along 1149 South Spuhr Road (Amy Anderson). Discussion was held regarding immanent domain and what the city could do to help get this easement for the Conlon's. Dale Shotkoski, Assistant City Attorney explained immanent domain was used for public property and this easement was between two neighbors.

Motion by Pielstick, second by Gilbert to approve Resolution #2006-218. Upon roll call vote, all voted aye. Motion adopted.

#2006-219 - Approving Continuation of Street Improvement District No. 1256; Widening of Capital Avenue from the Moores Creek Drain to Webb Road. Councilmember Haase questioned whether there would be a right and left turn lane on St. Patrick Avenue. Steve Riehl, Public Works Director stated there would be.

Motion by Haase, second by Cornelius to approve Resolution #2006-219. Upon roll call vote, all voted aye. Motion adopted.

REQUESTS AND REFERRALS:

Consideration of Request from CXT/LB Foster for Conditional Use Permit to Extend the Temporary Use of Office Trailers Located at 710 East US Highway 30. Craig Lewis, Building Department Director reported this item related to the aforementioned Public Hearing. Discussion was held regarding the length and number of permits issued to CXT/LB Foster. Marlan Ferguson, Economic Development Corp. commented on working with CXT through the LB-840 Funding and stated he would visit with them letting them know that the Council did not want to extend this permit past the 12 month period.

Motion by Hornady, second by Walker to approve the request of CXT/LB Foster for an Extension of their Conditional Use Permit located at 710 East US Highway 30 for 12 months. Upon roll call vote, Councilmember's Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase voted aye. Councilmember Meyer voted no. Motion adopted.

RESOLUTIONS:

#2006-226 - Consideration of Request from Delfino Vargas-Bernal dba Las Vegas Bar and Grill, 316 West 2nd Street for a Class "C" Liquor License. RaNae Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Hornady, second by Walker to approve Resolution #2006-226 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2006-227 - Consideration of Economic Development Incentive Agreement with J.C. Doyle, Ltd. Marlan Ferguson, President of Economic Development Corporation reported that J.C. Doyle, Ltd. had submitted an application for Economic Development Corporation LB-840 funding in the amount of a \$20,000 forgivable loan to assist with the production of computer software. Jerry Wissing representing J.C. Doyle, Ltd. spoke in support of the application.

Motion by Nickerson, second by Walker to approve Resolution 2006-227. Upon roll call vote, all voted aye. Motion adopted.

#2006-228 - Consideration of Statement of EPA Proposed Action Concerning the Parkview Superfund Site. Gary Mader, Utilities Director reported that the Environmental Protection Agency (EPA) had conducted extensive analyses of the ground water contamination by Volatile Organic Compounds in the southern and Southwestern areas of the City. The extension of City water lines was not a part of the EPA's proposed plan. A Proposed Alternative for the long term clean-up of contaminated ground water was presented at the July 27, 2006 Public Meeting by the EPA.

Mr. Mader stated approval of Resolution #2006-228 would allow the Mayor to provide comments to the EPA expressing the City's position.

Motion by Nickerson, second by Gilbert to approve Resolution #2006-228. Upon roll call vote, all voted aye. Motion adopted.

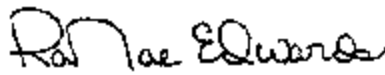
PAYMENT OF CLAIMS:

Motion by Cornelius, second by Nickerson to approve the Claims for the period of July 26, 2006 through August 8, 2006, for a total amount of \$2,391,075.13. Motion adopted unanimously. Councilmember Pauly abstained from Claim #133483.

Motion by Cornelius, second by Nickerson to approve the following Claims for the Library Expansion for the Period of July 12, 2006 through August 8, 2006:

#32 \$239,102.86
#33 \$ 429.19

ADJOURNMENT: The meeting was adjourned at 9:05 p.m.


RaNae Edwards
City Clerk

RESOLUTION 2006-219

WHEREAS, Street Improvement District No. 1256 (widening of Capital Avenue from the Moore's Creek Drainway to Webb Road), was created by Ordinance No. 8985 on July 12, 2005; and

WHEREAS, notice of the creation of such street improvement district was published in the Grand Island Independent in accordance with the provisions of Section 16-619, R.R.S. 1943; and

WHEREAS, Section 16-620, R.R.S. 1943, provides that if the owners of record title representing more than 50% of the front footage of the property abutting upon the streets, avenues, or alleys, or parts thereof which are within such proposed district shall file with the City Clerk within twenty days from the first publication of said notice written objections to such street improvement district, said work shall not be done and the ordinance shall be repealed; and

WHEREAS, an informational meeting was held on May 5, 2005 to further explain said project; and

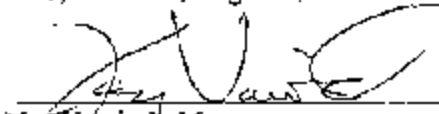
WHEREAS, on July 22, 2005, letters were sent to abutting property owners advising them of the creation of such improvement district; and

WHEREAS, the protest period ended on August 8, 2005, and no protests were filed with the City Clerk against the creation of Street Improvement District No. 1256;

WHEREAS, a mandated noise study has been completed, and the Nebraska Department of Roads and the Federal Highway Administration have now authorized the City to proceed with right-of-way acquisitions and the construction such project; and


NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that insufficient protests having been filed with the City Clerk against the creation of Street Improvement District No. 1256, such district shall be continued and constructed according to law.

Adopted by the City Council of the City of Grand Island, Nebraska, August 8, 2006.


Jay Vavrick, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as to Form 
August 11, 2016 City Attorney

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

May 13, 2008

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on May 13, 2008. Notice of the meeting was given in *The Grand Island Independent* on May 7, 2008.

Mayor Margaret Hornady called the meeting to order at 7:00 p.m. The following City Council members were present: Councilmember's Brown, Haase, Zapata, Nickerson, Gericke, Camcy, Gilbert, Ramsey, Niemann, and Meyer. The following City Officials were present: City Administrator Jeff Pederson, City Clerk RaNae Edwards, Finance Director David Springer, City Attorney Dale Shotkoski, and Public Works Director Steve Riehle.

INVOCATION was given by Pastor Scott Friesen, Berean Bible Church, 4116 West Capital Avenue followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Hornady introduced Community Youth Council Members Jeff Seim and Allen Buck. Mayor Hornady commented on the number of Letters to the Editor concerning the privatization of the Waste Water Treatment Plant. She clarified that the City was exploring possibilities and options, but no decision had been made yet about privatization.

PRESENTATIONS AND PROCLAMATIONS:

Proclamation "Employee Health and Fitness Week", May 19-23, 2008. Mayor Hornady proclaimed the week of May 19-23, 2008 as "Employee Health and Fitness Week". Jenny Roush, Wellness Education Coordinator was present to receive the proclamation.

PUBLIC HEARINGS:

Public Hearing on Request from Black Chip Entertainment & Hospitality dba Johnny Casinos, 3421 Conestoga Drive for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Black Chip Entertainment & Hospitality dba Johnny Casinos, 3421 Conestoga Drive for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on April 16, 2008; notice to the general public of date, time, and place of hearing published on May 3, 2008; notice to the applicant of date, time, and place of hearing mailed on April 16, 2008; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. Dan Stormer, 400 Winters Avenue, Glenvil, Nebraska spoke in support. No further public testimony was heard.

Public Hearing on Request from White Horse Tavern, Inc. dba White Horse Tavern, 1803 West North Front Street for an Addition to Class "C-04161" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from White Horse Tavern, Inc. dba White Horse Tavern, 1803 West North Front Street for an addition to Class "C-04161" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor

Control Commission and received by the City on April 23, 2008; notice to the general public of date, time, and place of hearing published on May 3, 2008; notice to the applicant of date, time, and place of hearing mailed on April 23, 2008; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

ORDINANCES:

Councilmember Gilbert moved "that the statutory rules requiring ordinances to be read by title on three different days be suspended and that ordinance numbered:

#9168 – Consideration of Vacation of a Portion of East 6th Street (East of 1003 East 6th Street)

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of this ordinance on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Zapata second the motion. Upon roll call vote, all voted aye. Motion adopted.

Steve Richle, Public Works Director reported that Ordinance #9168 would vacate a portion of East 6th Street, east of 1003 East 6th Street in Evans Addition Subdivision for better utilization of land for a new residential subdivision..

Motion by Brown, second by Haase to approve Ordinance #9168.

City Clerk: Ordinance #9168 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Councilmember Gericke was absent. Motion adopted.

City Clerk: Ordinance #9168 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, all voted aye. Councilmember Gericke was absent. Motion adopted.

Mayor Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9168 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Motion by Zapata, second by Nickerson to approve the Consent Agenda. Upon roll call vote, all voted aye. Councilmember Gericke was absent. Motion adopted.

Approving Minutes of April 17, 2008 Special Study Session/Goals and Budget Retreat.

Approving Minutes of April 22, 2008 City Council Regular Meeting.

Approving Minutes of May 6, 2008 City Council Study Session.

Approving Re-Appointments of Dianne Miller, Karen Bredthauer and Scott Erickson to the Interjurisdictional Planning Commission Board.

Approving Re-Appointments of Bill Martin, Buzz Douthett, Mike Toukan and Scott Zana to the Business Improvement District #4 Board.

Approving Request from Shirley Ginn, 251 Courtland Street, Trumbull, Nebraska for Liquor Manager Designation for Holiday Station Store #114 Located at 1404 West 2nd Street Contingent upon Ms. Ginn Completing a State Approved Alcohol Server/Seller Training Program.

#2008-122 – Approving Bid Award for Street Improvement District No. 1256: Widening of Capital Avenue from the Moores Creek drain to Webb Road with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$3,365,842.25.

#2008-123 Approving Designating the North Side of Old Potash Highway from the Armory Driveway East for Approximately 350 Feet as No Parking.

#2008-124 – Approving Rescinding Resolution #2008-96 Regarding Asphalt Hot-Mix 2008 and Approving Corrected Resolution #2008-124 Bid Award to Gary Smith Construction Company of Grand Island, Nebraska in an Amount of \$34.80 per ton for Type “A”, \$28.40 per ton for Type “B” Asphalt Hot-Mix and \$33.65 per ton for Type “C” Asphaltic Concrete Hot-Mix.

#2008-125 – Approving Setting the Board of Equalization Date of June 10, 2008 for Annual Mowing Assessments.

#2008-126 – Approving Keno Satellite Location and Agreement for the KPf, Inc. dba Ole Cow Palace, 3602 West 2nd Street.

#2008-127 – Approving Change Order #19 with Chief Construction of Grand Island, Nebraska for Law Enforcement Center in an Amount of \$1,107.09 and an Increase in Contingency Fund Balance of \$25,943.54.

#2008-128 – Approving Change Order #1 with Island Plumbing Company of Grand Island, Nebraska for Campground Potable Water System at the Heartland Public Shooting Park for a Decrease of \$4,121.00 and a Revised Contract Amount of \$25,000.00. Councilmember Meyer abstained.

#2008-129 – Approving Certificate of Final Completion for Master Control and Council Chamber Projects.

#2008-130 – Approving Grant Award from Grand Island Community Foundation for Family Day in the Park in the Amount of \$2,500.00.

#2008-131 – Approving Bid Award for Electric Underground Shop Roof Covering Replacement at 1219 West North Front Street with Tri-Cities Group, Inc. of Grand Island, Nebraska in an Amount of \$64,856.00.

#2008-132 – Approving Award of Proposal for Engineering Services Related to Quiet Zone Improvements with Felsburg, Holt & Ullevig Consulting Engineers of Omaha, Nebraska with JEO Consulting Group of Grand Island, Nebraska as a Sub-Consultant in an Amount not to exceed \$28,600.00.

RESOLUTIONS:

#2008-120 – Consideration of Request from Black Chip Entertainment & Hospitality dba Johnny Casinos, 3421 Conestoga Drive for a Class “C” Liquor License and Liquor Manager Designation for Daniel Stormer, 400 Winters Avenue, Glenvil, Nebraska. RaNac Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Haase, second by Brown to approve Resolution #2008-133 contingent upon final inspections and Mr. Stormer completing a state approved alcohol server/seller training program. Upon roll call vote, all voted aye. Motion adopted.

#2008-134 – Consideration of Request from White Horse Tavern, Inc. dba White Horse Tavern, 1803 West North Front Street for an Addition to Class “C-04161” Liquor License. RaNac Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Brown, second by Gilbert to approve Resolution #2008-134 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2008-135 – Consideration of Intent to Offer Support of the Relocation of the Nebraska State Fair. City Attorney Dale Shottkoski reported that in order to move forward with the relocation of the Nebraska State Fair project, the City needed to have representatives negotiate with the Nebraska State Fair Board, the Hall County Livestock Improvement Association, and the County of Hall. It was recommended that the Mayor designate a negotiating team to pursue agreements between the parties necessary for the relocation of the Nebraska State Fair and bring the appropriate agreements to Council for review and ratification. It was also recommended that additional revenue would be needed and further study on bonding and an occupation tax on Food and Beverage Service businesses was necessary.

The following people spoke:

- Dean Pegg owner of The Chicken Coop, 120 East 3rd Street – opposed Food & Beverage Tax
- Lewis Kent, 624 E. Meves Avenue – opposed
- Curtis Cellar, 4258 Nevada Avenue – opposed Food & Beverage Tax
- Rick Milton, 109 East Ashton – support
- Andrew Meier, 4039 Craig Drive – opposed Food & Beverage Tax

Discussion was held by the council on the merits of a Food and Beverage Tax. Mayor Hornady commented on the negotiating team and participation of the City in looking into the options of moving forward with the State Fair relocation and financing issues.

Motion by Ramsey, second by Nickerson to approve Resolution #2008-135. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Brown, second by Haase to approve the Claims for the period of April 23, 2008 through May 13, 2008, for a total amount of \$3,342,792.39. Motion adopted unanimously.

ADJOURNMENT: The meeting was adjourned at 8:05 p.m.

RaNae Edwards
City Clerk

RESOLUTION 2008-122

WHEREAS, the City of Grand Island invited sealed bids for Street Improvement District No. 1256, Widening of Capital Avenue from the Moores Creek Drain to Webb Road, according to plans and specifications on file with the Engineering Division of the Public Works Department; and

WHEREAS, on March 27, 2008 bids were received, opened, and reviewed; and

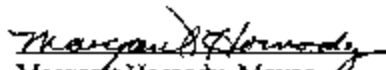
WHEREAS, The Diamond Engineering Company of Grand Island, Nebraska submitted a bid in accordance with the terms of the advertisement of bids and plans and specifications and all other statutory requirements contained therein, such bid being in the amount of \$3,365,842.25; and

WHEREAS, The Nebraska Department of Roads concurs with the bid award; and

WHEREAS, the bid of The Diamond Engineering Company is less than the estimate for the construction of Street Improvement District No. 1256.


NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of The Diamond Engineering Company of Grand Island, Nebraska in the amount of \$3,365,842.25 for construction of Street Improvement District No. 1256, Widening of Capital Avenue from the Moores Creek Drain to Webb Road.

Adopted by the City Council of the City of Grand Island, Nebraska, May 13, 2008.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as to Form ☒ 
May 9, 2008 ☒ City Attorney

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

August 26, 2008

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on August 26, 2008. Notice of the meeting was given in *The Grand Island Independent* on August 20, 2008.

Mayor Hornady called the meeting to order at 7:00 p.m. The following City Council members were present: Councilmember's Brown, Haase, Zapata, Gericke, Carney, Gilbert, Ramsey, Niemann, and Meyer. Councilmember Nickerson was absent. The following City Officials were present: City Administrator Jeff Pederson, City Clerk RaNae Edwards, Finance Director David Springer, City Attorney Dale Shofkoski, and Public Works Director Steve Richle.

INVOCATION was given by Pastor Steve Warriner, Abundant Life Christian Center, 3409 West Fairley Avenue followed by the PLEDGE OF ALLEGIANCE.

COMMUNICATION: Mayor Hornady introduced Community Youth Council members Paige Liess and Claire Mackey.

PUBLIC HEARINGS:

Public Hearing on Request from Hooker Brothers Construction Co. for a Conditional Use Permit to Stockpile Recyclable Concrete and Asphalt Located at 3016 North Webb Road, Craig Lewis, Building Department Director reported Hooker Brothers Construction Co. had applied for a Conditional Use Permit to stockpile concrete and asphalt materials at 3016 North Webb Road It was recommended council approve the conditional use permit with the following conditions:

- (a). The permit shall be granted for a two year period with the possibility of a renewal at the end of the initial period.
- (b). Pumping of material for sale shall not be allowed. Pumping and dredging to reshape and create an adequate depth of the proposed lake is permissible.
- (c). The finished width of developable property adjacent to the public right of way shall be 300 feet at the time of completion. A setback of 100 feet from any adjacent property line shall be maintained between any reshaping of the lake or any recycling operation.
- (d). Development activities (including lighting) at the site shall be limited to daylight hours (15) minutes before sunrise and (15) minutes after sunset Mondays through Saturday. No development activities shall be permitted on Sundays or from fifteen minutes after sunset or fifteen minutes before sunrise.
- (e). Materials and equipment shall not be stored on the property within any easements or the regulated floodway as determined by the Federal Emergency Management Agency or it's successor and the entity with jurisdiction and authority to enforce floodplain regulations. No product, material or equipment shall be stored within any easement or in such a manor that it would violate any safety provisions of the National Electric Safety code.
- (f). All dead trees, rubbish, and debris, if any must be cleared from the real estate as soon as practical and such real estate must, at all times be kept in a clean and neat condition.

- (g). No trash, rubbish, debris, dead trees, lumber, bricks, refuse or junk material of any nature whatsoever shall be dumped, placed, or located upon such real estate.
- (h). Applicant shall not use the real estate in any way so as to create or result in an unreasonable hazard or nuisance to adjacent land owners or to the general public.
- (i). Applicant shall maintain any and all drainage ditches that may be located upon the real estate.
- (j). Applicant shall not permit the hauling of any material from the premises over and across any public highway or road unless said material is completely dry and free from water or is hauled in trucks which are designed and equipped so as to prevent water from leaking onto the traveled portion of the roadbed.
- (k). All water accumulated upon the premises by virtue of such operations shall be retained upon the premises and shall not flow upon or encroach upon any adjacent land. Only surface waters that have historically flowed from the premises shall be permitted to leave the same historical natural drainage ways.
- (l). If at any time during the life of the permit the operation shall cease for a continuous 12 months the permit shall become void and a renewal shall be obtained before becoming once again operational.

The following people spoke:

- Theresa Marble, 3004 N. Webb Road – support with conditions as presented by the Building Department
- Golda Bockbrader, 3005 N. Webb Road -- spoke of concerns with depth of lake and water problems
- Jim Washington, 3012 N. Webb Road - opposed
- Kelley Sok, 3120 N. Webb Road – support with conditions as presented by the Building Department
- Rod Hooker, Hooker Brothers Construction Company - support

No further public testimony was heard.

Public Hearing and Approval of Revolving Loan Funds for Environmental Review Update at Cornhusker Army Ammunition Plant/Industrial Park. Joni Kuzma, Community Development Administrator reported the Reuse Committee met on August 12, 2008 and voted to recommend the City Council approve use of \$43,750 of Reuse funds for the Cornhusker Industrial Park environmental review. No public testimony was heard.

Public Hearing on Creation of Business Improvement District #8, Downtown. Wes Nespor, Attorney reported the Mayor and Council set preliminary boundaries and appointed an initial Board of Director for Business Improvement District #8. The next step in the process was to hold a public hearing to hear all protests and receive evidence for or against the District and to adopt the Ordinance formally creating the District.

The following people spoke:

- Galea Lambrecht, 1112 East Street, Wood River – opposed
- Terry Taylor, 222 South Eddy Street – opposed
- Bill Francis, Attorney for five property owners spoke in opposition and submitted a Protest Petition signed by James S. Reed, Arlene M. Baasch, Richard H. Baasch, Ronald

E. Trumpe, and Larry C. Gerdes. Also commented on a mistake in Resolution #2008-211 setting the boundaries for BID #8.

- Bruce Eberle, 3219 Hiawatha – supported
- Larry Royle, 112 West Charles – opposed

No further public testimony was heard. City Clerk RaNae Edwards read the names of those owners protesting the district.

Mr. Nespor explained the process of what needed to happen before the Public Hearing was closed and the opportunity for those present to sign a protest. This matter was delayed to the end of the meeting.

CONSENT AGENDA: Consent agenda item G-11 was pulled for further discussion. Motion by Meyer, second by Zapata to approve the Consent Agenda excluding item G-11. Upon roll call vote, all voted aye. Motion adopted.

Receipt of Official Documents – Tort Claim Filed by Jeff Raitt.

Approving Minutes of August 12, 2008 City Council Regular Meeting.

Approving Minutes of August 19 and 20, 2008 City Council Budget Meetings.

#2008-218 – Approving Interlocal Agreement for the Central Nebraska Environmental Complex.

#2008-219 – Approving Grant Application with the Nebraska Environmental Trust for the Central Nebraska Environmental Complex.

#2008-220 – Approving Resolution of Intent to Create Business Improvement District #6, Second Street.

#2008-221 – Approving Resolution of Intent to Create Business Improvement District #7, South Locust Street from Hwy 34 to Stolley Park Road.

#2008-222 – Approving FY 2008-2009 Annual Budget for Business Improvement District #4, South Locust Street from Stolley Park Road to Fonner Park Road and Setting September 23, 2008 for Board of Equalization.

#2008-223 – Approving FY 2008-2009 Annual Budget for Business Improvement District #6, 2nd Street from Garfield Avenue to Eddy Street and Setting September 23, 2008 for Board of Equalization.

#2008-224 – Approving FY 2008-2009 Annual Budget for Business Improvement District #7, South Locust Street from Stolley Park Road to Highway 34 and Setting September 23, 2008 for Board of Equalization.

#2008-226 -- Approving Revolving Loan Funds for Environmental Review Update at Cornhusker Army Ammunition Plant/Industrial Park.

#2008-227 – Approving Bid Award for Skid Steer Loader for the Streets Division with Central Nebraska Bobcat of Grand Island, Nebraska in an Amount of \$24,430.00.

#2008-228 -- Approving Contract for Anaerobic Digestion System for the Wastewater Division of the Public Works Department with Black and Veatch of Kansas City, Missouri in an Amount not to exceed \$900,000.00.

#2008-229 Approving Change Order No. 1 for the 2008 Asphalt Resurfacing Project No. 2008-AC-1 with Gary Smith Construction Company, Inc. of Grand Island Nebraska for an Increase of \$29,216.24 and a Revised Contract Amount of \$747,592.92.

#2008-230 Approving Certificate of Final Completion for the 2008 Asphalt Resurfacing Project No. 2008-AC-1 with Gary Smith Construction Company, Inc. of Grand Island, Nebraska.

#2008-231 – Approving Contract Amount Correction to Resolution 2008-122; Bid Award to The Diamond Engineering Company of Grand Island, Nebraska for the Construction of Street Improvement District No. 1256; Correct Amount of \$3,379,328.25.

#2008-232 – Approving Annual Agreement for Operating System and Database Administration Support with MUNIS, Inc. for September 14, 2008 to September 13, 2009 for Operating System Support \$22,755.32; Munis Licensing and Support \$78,977.30; Data Base Service Support \$4,583.25; and User Interface Support \$3,000.00.

#2008-233 – Approving Renewal of Boiler and Machinery Insurance for Utilities Department with Factory Mutual Insurance Company of St. Louis, Missouri in an Amount of \$393,651.00.

#2008-234 Approving Agreement with Plate Valley Weed Management Area for Invasive Plant Control and River Restoration at no cost to the City.

#2008-235 – Approving One (1) 500W Analog UHF Television Transmitter with Installation with LARCAN USA of Lafayette, Colorado in an Amount of \$36,550.00.

REQUESTS AND REFERRALS:

Consideration of Request from Hooker Brothers Construction Co. for a Conditional Use Permit to Stockpile Recyclable Concrete and Asphalt Located at 3016 North Webb Road. Craig Lewis, Building Department Director reported this item related to the aforementioned Public Hearing.

Discussion was held concerning the crushed asphalt and the depth of the lake.

Motion by Gilbert, second by Carney to approve the request with conditions as presented at the Public Hearing.

Motion by Gericke, second by Haase to amend the motion for a two year permit only.

Discussion was held whether Hooker Brothers could come back to Council to continue the permit after the two years expired. Craig Lewis, Building Department Director stated they could.

Motion by Gilbert, second by Carney to call the question. Upon roll call vote, all voted aye. Motion adopted.

Upon roll call vote on the amendment to limit the permit to two years, Councilmember's Gericke, Zapata, Haase, and Brown voted aye. Councilmember's Meyer, Niemann, Ramsey, Gilbert, and Carney voted no. Motion failed.

Upon roll call vote of the main motion, Councilmember's Brown, Haase, Zapata, Carney, Gilbert, Ramsey, Niemann and Meyer voted aye. Councilmember Gericke voted no. Motion adopted.

Consideration of Adding Storm Management System along Stolley Park Road to the FY 2008/2009 Budget. Steve Richle, Public Works Director reported this item was postponed from the August 20, 2008 City Council meeting. A PowerPoint presentation was presented on the Stolley Park and Southwest Drainage system.

Steve Milnitz, 3004 Brentwood Court spoke in support of using City dollars to address this problem. Pam Waechter, 3011 Brentwood Blvd. spoke in support and presented a petition for study to create a dewatering district.

A lengthy discussion was held concerning the problems with water drainage in the Brentwood and Stolley Park Road areas, cleaning out ditches, gate to be added to the Blaine Street storm drain pipe, concerns with putting water downstream on someone else, costs and time frame for short term and long term solutions.

City Administrator Jeff Pederson recommended the council create an appropriation in the amount of \$250,000 this year for this area with additional funding to following. Mayor Hornady commented on the complexity of water issues in the City.

Motion by Gilbert, second by Brown to approve adding the storm management system along Stolley Park Road to the FY 2008-2009 Budget in the amount of \$250,000. Upon roll call vote, Councilmember's Nieman, Gilbert, Carney, Gericke, Zapata, Haase and Brown voted aye. Councilmember's Meyer and Ramsey voted no. Motion adopted.

Conclusion of Public Hearing on Creation of Business Improvement District #8, Downtown.

Motion by Carney, second by Ramsey that 12 protests for District #8 are valid but constitute less than 50% of the assessable units in the District. Upon roll call vote, all voted ayes. Motion adopted.

ORDINANCES:

Councilmember Gilbert moved "that the statutory rules requiring ordinances to be read by title on three different days be suspended and that ordinance numbered:

49180 Consideration of Creating Business Improvement District #8, Downtown

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of this ordinance on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Zapata second the motion. Upon roll call vote, all voted aye. Motion adopted.

Motion by Meyer, second by Gericke to approve Ordinance #9180.

City Clerk: Ordinance #9180 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9180 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9180 is declared to be lawfully adopted upon publication as required by law.

#2008-225 – Approving FY 2008-2009 Annual Budget for Business Improvement District #8, Downtown and Setting September 23, 2008 for Board of Equalization.

Motion by Meyer, second by Ramsey to approve Resolution #2008-225. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Brown, second by Haase to approve the Claims for the period of August 13, 2008 through August 26, 2008, for a total amount of \$5,524,652.81. Motion adopted unanimously.

ADJOURNMENT: The meeting was adjourned at 9:50 p.m.

RaNa Edwards
City Clerk

RESOLUTION 2008-231

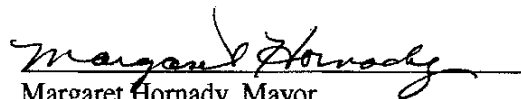
WHEREAS, on May 13, 2008, by Resolution 2008-122, the City Council of the City of Grand Island awarded the bid of The Diamond Engineering Company of Grand Island, Nebraska for the construction of Street Improvement District No. 1256, Widening of Capital Avenue from the Mores Creek Drain to Webb Road; and

WHEREAS, Resolution 2008-122 incorrectly stated the bid award to be \$3,365,842.25; and


WHEREAS, it is necessary to amend Resolution 2008-122 to award the bid in the correct amount of \$3,379,328.25 to The Diamond Engineering Company for the construction of Street Improvement District No. 1256; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Resolution 2008-122 is hereby amended to correct the bid award amount to \$3,379,328.25 to The Diamond Engineering Company of Grand Island, Nebraska for the construction of Street Improvement District No. 1256.

Adopted by the City Council of the City of Grand Island, Nebraska, August 26, 2008.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

November 8, 2011

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on November 8, 2011. Notice of the meeting was given in *The Grand Island Independent* on November 2, 2011.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following City Council members were present: Chuck Haase, Larry Carney, Bob Niemann, Kirk Ramsey, Peg Gilbert, Linna Dee Donaldson, Scott Dugan, Randy Gard, and John Gericke. Councilmember Mitch Nickerson was absent. The following City Officials were present: City Administrator Mary Lou Brown, City Clerk RaNae Edwards, City Attorney Robert Sivick, Public Works Director John Collins and Interim Finance Director Jaye Monter.

INVOCATION was given by Pastor Scott Jones, Third City Christian Church, 4100 West 13th Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek introduced Community Youth Council members Ashley Bykerk and Jackson Buck. City Administrator Mary Lou Brown commented on technical difficulties with the internet in the Council Chambers and gave an update on the Quiet Zone project.

PRESENTATIONS AND PROCLAMATIONS:

Recognition of Dr. Rebecca Stenke, 2011 Physician Volunteer of the Year and Dr. Jama Obermiller, 2011 Dentist Volunteer of the Year. Susan Aguilar representing Third City Community Clinic commented on the services of the clinic. Mayor Vavricek and the City Council recognized Dr. Rebecca Steinke and Dr. Jama Obermiller for 2011 Physician and Dentist Volunteer of the Year. Dr. Steinke and Dr. Obermiller were present for the recognition.

Recognition of the Nebraska National Guard. Mayor Vavricek and the City Council recognized those men and women serving in the Nebraska National Guard. Also recognized were men and women who are currently serving in the armed forces and those who had served in the past. Captain Mike Wieneke with the Nebraska National Guard was present for the recognition and commented on the service of the troops from this area in Kosovo and Afghanistan.

BOARD OF EQUALIZATION: Motion by Gilbert, second by Ramsey, carried unanimously to adjourn to the Board of Equalization.

#2011-BE-6 – Consideration of Determining Benefits for Water Main District 456T – Engleman Road from 13th Street to Old Potash Highway and Old Potash Highway East of Engleman Road for 600’. Utilities Director Tim Luchsinger reported that the City Council in its capacity as the Board of Equalization was required to determine the benefits for Water Main District 456T. Special assessments were for the amount of \$537,854.24.

Motion by Gilbert, second by Dugan to approve Resolutions #2011-BE-6. Upon roll call vote, all voted aye. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Gilbert, second by Gard carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #43, 1222 South Locust Street for a Class "D" Liquor License. RaNae Edwards, City Clerk reported that an application for a Class "D" Liquor License had been received from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #43, 1222 South Locust Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on October 11, 2011; notice to the general public of date, time, and place of hearing published on October 29, 2011; notice to the applicant of date, time, and place of hearing mailed on October 11, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #44, 1309 Diers Avenue for a Class "D" Liquor License. RaNae Edwards, City Clerk reported that an application for a Class "D" Liquor License had been received from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #44, 1309 Diers Avenue. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on October 11, 2011; notice to the general public of date, time, and place of hearing published on October 29, 2011; notice to the applicant of date, time, and place of hearing mailed on October 11, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request from Pamela D. Hall dba BT's Lounge, 2320 South Locust Street for a 12' x 26' Addition – Beer Garden to Liquor License "C-24627". RaNae Edwards, City Clerk reported that an application for a 12' x 26' Beer Garden addition to Class "C-24627" Liquor License had been received from Pamela D. Hall dba BT's Lounge, 2320 South Locust Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on October 13, 2011; notice to the general public of date, time, and place of hearing published on October 29, 2011; notice to the applicant of date, time, and place of hearing mailed on October 13, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

ORDINANCES:

Regional Planning Director Chad Nabity gave an update on the annexation process and reported this was the second of three readings for the annexation of properties known as Area 3a, 6, 7, 12, and 13. City Administrator Mary Lou Brown commented on no cost to the City to annex these areas.

Virgil Harden representing the Grand Island Public Schools spoke in support of all five annexations.

#9339 – Consideration of Annexation for Property Located South of Airport Road/US Highway 281 and the West Side of Broadwell Avenue North of the Burlington Northern Santa Fe Tracks Including Eagle Scout Park and the Veterans Field (Annexation Area 3a) (Second Reading)

Motion by Ramsey, second by Niemann to approve Ordinance #9339 on second reading. Upon roll call vote all voted aye. Motion adopted.

#9340 – Consideration of Annexation of Property located North of Bismark Road on the East Side of Stahr Road (Annexation Area 6) (Second Reading)

Motion by Donaldson, second by Gard to approve Ordinance #9340 on second reading. Upon roll call vote all voted aye. Motion adopted.

#9341 – Consideration of Annexation of Property Located North of US Highway 34 on the East Side of South Locust Street (Annexation Area 7) (Second Reading)

Motion by Gard, second by Gericke to approve Ordinance #9341 on second reading. Upon roll call vote all voted aye. Motion adopted.

#9342 – Consideration of Annexation of Property Located North of Husker Highway to the West Side of US Highway 281 and Prairieview Street (Annexation Area 12) (Second Reading)

Discussion was held regarding the timing and need of this annexation. Comments were made by Council regarding the reasons to annex this area. Investment of the City for infrastructure in this area, emergency response, to equitably apply ordinances to property with regards to firearms, fireworks, animals and open burning was mentioned.

Motion by Ramsey, second by Niemann to approve Ordinance #9342 on second reading. Upon roll call vote Councilmember's Carney, Niemann, Ramsey, Gilbert, Donaldson, Dugan, Gard, and Gericke voted aye. Councilmember Haase voted no. Motion adopted.

#9343 – Consideration of Annexation of Property Located South of Old Potash Highway on the West Side of North Road (Annexation Area 13) (Second Reading)

Motion by Gilbert, second by Niemann to approve Ordinance #9343 on second reading. Upon roll call vote all voted aye. Motion adopted.

Councilmember Gilbert moved "that the statutory rules requiring ordinances to be read by title on three different days are suspended and that ordinance numbered:

#9345 – Consideration of Proposed Modifications to City Council Ward Boundaries Resulting from Redistricting

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of this ordinance on second reading and then upon final

passage and call for a roll call vote on each reading and then upon final passage.” Councilmember Ramsey second the motion. Upon roll call vote, all voted aye. Motion adopted.

Regional Planning Director Chad Nabity reported that every ten years after the census the Council needed to redistrict the Council wards to allow for equal-population representation.

Motion by Donaldson, second by Niemann to approve Ordinance #9345.

City Clerk: Ordinance #9345 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9345 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9345 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda item G-3 was pulled for further discussion. Motion by Ramsey, second by Dugan to approve the Consent Agenda excluding item G-3. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of October 25, 2011 City Council Regular Meeting.

Approving Minutes of November 1, 2011 City Council Study Session.

#2011-323 – Approving Bid Award for (19) Transmission Distance Relays with Power Delivery Services, Inc. of Omaha, Nebraska in an Amount of \$132,145.00.

#2011-324 – Approving Certificate of Final Completion for Water Main Project 2011-W-3 – Broadwell Avenue at the Union Pacific Railroad Tracks, and Vine Street at the Union Pacific Railroad Tracks with Diamond Engineering Company of Grand Island, Nebraska.

#2011-325 – Approving Benefits for Water Main District 456T – Engleman Road from 13th Street to Old Potash Highway and Old Potash Highway East of Engleman Road for 600’.

#2011-326 – Approving Change Order No. 2 for Grand Island Quiet Zone Project No. 2012-QZ-1 with Diamond Engineering Company of Grand Island, Nebraska for no Change in Contract Amount.

#2011-327 – Approving Continuation of Sanitary Sewer District No. 529, Westwood Park Subdivision.

#2011-328 – Approving the Wireline Crossing Agreement between the Union Pacific Railroad Company and the City of Grand Island.

#2011-329 – Approving Change Order No. 1 for Concrete Ditch Liner and Headwall East of Harrison Street with Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$1,725.00 and a Revised Contract Amount of \$24,986.00.

#2011-330 – Approving Change Order No. 1 for Sugar Beet Ditch Piping at Suck's Lake; Drainage Project No. 2011-D-3 with Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$12,550.00 and a Revised Contract Amount of \$82,214.40.

#2011-331 – Approving Change Order No. 1 for Building Reconstruction – Lift Station No. 4; Project NO. WWTP-2011-S-4 with Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$1,840.00 and a Revised Contract Amount of \$40,212.80.

#2011-332 – Approving Certificate of Final Completion for the 2011 Asphalt Resurfacing Project No. 2011-AC-1 with J.L.L. Asphalt Paving Company of Grand Island, Nebraska.

#2011-333 – Approving Certificate of Final Completion for Concrete Ditch Liner and Headwall East of Harrison Street with Diamond Engineering Company of Grand Island, Nebraska.

#2011-334 – Approving Amending the 2011/2012 Fee Schedule.

#2011-335 – Approving Update to the Emergency Management/Communication Center Interlocal Cooperation Agreement with Hall County.

#2011-336 – Approving Certificate of Final Completion with Diamond Engineering Company of Grand Island, Nebraska and Scheduling December 20, 2011 for the Board of Equalization for Street Improvement District No. 1256; Capital Avenue from the Moors Creek Drain to Webb Road.

#2011-337 – Approving Certificate of Final Completion with Diamond Engineering Company of Grand Island, Nebraska and Scheduling December 20, 2011 for the Board of Equalization for Sanitary Sewer District No. 526; Lot 3 of Grand Island Plaza Subdivision.

#2011-316 – Approving Amending the City of Grand Island Police Officers' Retirement System Plan and Trust for Changes in the Applicable Tax Laws.

#2011-317 – Amending the City of Grand Island Firefighters' Retirement System Plan and Trust for Changes in the Applicable Tax Laws.

#2011-322 – Approving Greater Nebraska Cities Membership. City Administrator Mary Lou Brown reported that the Quad Cities of Grand Island, Hastings, North Platte and Kearney had met for the past twelve years to discuss legislative impact to the respective communities. Requested was to add Lexington to the group and change the name to Greater Nebraska Cities (GNC). There were no dues associated with belonging to this group.

Mike Gloor, 3115 Brentwood Circle spoke in support.

Motion by Haase, second by Carney to refer Resolution #2011-322 to the next Study Session for discussion. Upon roll call vote, Councilmember's Haase, Carney, Niemann, Dugan, and Gericke voted aye. Councilmember's Ramsey, Gilbert, Donaldson, and Gard voted no. Motion failed.

Motion by Ramsey, second by Gilbert to approve Resolution #2011-322.

Discussion was held regarding how this organization would work and how Council would be represented.

Motion by Haase, second by Gericke to amend Resolution #2011-322 to include the Council President or Council designee to attend the meetings. Upon roll call vote, all voted aye. Motion adopted.

Upon roll call vote of the main motion, all voted aye. Motion adopted.

RESOLUTIONS:

#2011-338 Consideration of Request from Pump & Pantry, Inc. dba Pump & Pantry #43, 1222 South Locust Street for a Class "D" Liquor License and Liquor Manager Designation for Susan McAfee, 1863 7th Avenue, Dannebrog, Nebraska. This item related to the aforementioned Public Hearing.

Motion by Donaldson, second by Gericke to approve Resolution #2011-338 contingent upon final inspections. Upon roll call vote, all voted aye. Councilmember Gard abstained. Motion adopted.

#2011-339 – Consideration of Request from Pump & Pantry, Inc. dba Pump & Pantry #44, 1309 Diers Avenue for a Class "D" Liquor License and Liquor Manager Designation for Susan McAfee, 1863 7th Avenue, Dannebrog, Nebraska. This item related to the aforementioned Public Hearing.

Motion by Donaldson, second by Gericke to approve Resolution #2011-339 contingent upon final inspections. Upon roll call vote, all voted aye. Councilmember Gard abstained. Motion adopted.

#2011-340 – Consideration of Request from Pamela D. Hall dba BT's Lounge, 2320 South Locust Street for a 12' x 26' Addition – Beer Garden to Liquor License "C-24627". This item related to the aforementioned Public Hearing.

Motion by Ramsey, second by Niemann to approve Resolution #2011-340 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2011-341 – Approving Confidentiality Agreement with Municipal Energy Agency of Nebraska (MEAN) to Provide Southwest Power Pool Marketing Service Agreement Proposal. Utilities Director Tim Lauchsinger reported that electric generation plants are connected to a national electric transmission grid for the distribution of electricity to users. Grand Island is located in the Southwest Power Pool (SPP) and is not a member of SPP. Grand Island Utilities had contacted MEAN and NPPD to submit proposals to become our broker to transfer power. In order for MEAN to submit a proposal a Confidentiality Agreement was needed.

Motion by Gilbert, second by Dugan to approve Resolution #2011-341. Upon roll call vote, all voted aye. Motion adopted.

#2011-342 – Consideration of Designating No Parking on 2nd Street, Between Walnut Street and Cedar Street. Public Works Director John Collins reported that at the October 25, 2011 City Council meeting a request from St. Steven's Episcopal Church was received to remove parking between Walnut Street and Cedar Street, on the north side of 2nd Street. This item was referred to the November 8, 2011 meeting by City Council.

It was noted that the Public Works Department had the approval from the Nebraska Department of Roads but there were still some items that needed to be looked into.

Motion by Gericke, second by Dugan to refer this item to the November 22, 2011 City Council meeting. Upon roll call vote, all voted aye. Motion adopted.

#2011-343 – Consideration of Declaration of Intent to Issue Bonds for Uranium Removal System. Utilities Director Tim Luchsinger reported that the estimated capital cost of this project was \$3,000,000 and Council proposed this would be funded by bonding, with an annual operating cost of approximately \$800,000 which was to be funded by a rate adjustment. Ameritas, bond underwriter for the City, advised that Council should declare their intention to use bond revenue to fund the capital improvements which would allow bond proceeds to be used for costs of the uranium removal system prior to the bonds being issued and the funds received.

Motion by Gard, second by Haase to approve Resolution #2011-343. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Gericke to approve the Claims for the period of October 26, 2011 through November 8, 2011, for a total amount of \$3,803,152.42. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 8:35 p.m.

RaNae Edwards

RaNae Edwards
City Clerk

RESOLUTION 2011-336

WHEREAS, the City Engineer/Public Works Director for the City of Grand Island has issued a Certificate of Final Completion for Street Improvement District No. 1256 located in Capital Avenue, from Moores Creek Drain to Webb Road, certifying that The Diamond Engineering Company of Grand Island, Nebraska under contract date May 20, 2008, has completed such project according to the terms, conditions, and stipulations for such improvements; and

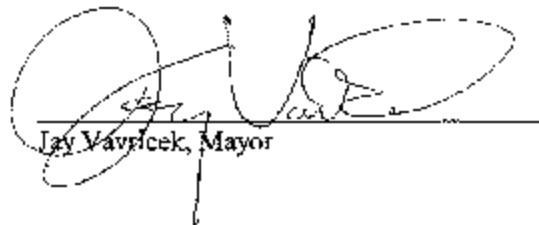
WHEREAS, the City Engineer/Public Works Director recommends the acceptance of the district; and

WHEREAS, the Mayor concurs with the City Engineer/Public Works Director's recommendations.

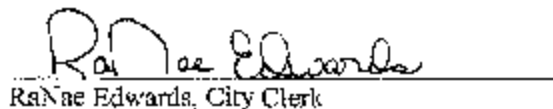
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that:

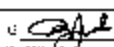
1. The City Engineer/Public Works Director's Certificate of Final Completion for Street Improvement District No. 1256 is hereby confirmed.
2. The City Council will sit as a Board of Equalization on December 20, 2011 to determine benefits and set assessments for Street Improvement District No. 1256.

Adopted by the City Council of the City of Grand Island, Nebraska, November 8, 2011.


Jay Vavricek, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as in Form	by 
November 4, 2011	City Attorney

Nebraska**Chapter 16. Cities of the First Class****Article 6. Public Improvements****(b). Streets**

Current through the 2011 legislative session

§ 16-609. Improvements; power of city

The council shall have power to open, control, name, rename, extend, widen, narrow, vacate, grade, curb, gutter, park, and pave or otherwise to improve and control and keep in good repair and condition, in any manner it may deem proper, any street, avenue, or alley, or public park or square, or part of either, within or without the limits of the city, and it may grade partially or to the established grade, or park or otherwise improve any width or part of any such street, avenue, or alley. When the city vacates all or any portion of a street, avenue, or alley, or public park or square, or part of either, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4908; C.S.1922, § 4076; C.S.1929, § 16-605; R.S.1943, § 16-609; Laws 2001, LB 483, § 4.

Note:

Authority is conferred on cities of the first class to regulate parking of vehicles on the street. Vap v. City of McCook, 178 Neb. 844">178 Neb. 844, 136 N.W.2d 220">136 N.W.2d 220 (1965).

Grant of power to city to curb and pave street was a delegation of police power. Hillerege v. City of Scottsbluff, 164 Neb. 560">164 Neb. 560, 83 N.W.2d 76 (1957).

While authority is conferred upon the municipality to control its streets, yet the discretion must be exercised in a reasonable and not in an arbitrary and discriminatory manner. State ex rel. Andruss v. Mayor and Council of City of North Platte, 120 Neb. 413">120 Neb. 413, 233 N.W. 4 (1930).

The mere establishment of grade, without alteration, creates no damage and the statute of limitations does not commence to run against property owners' right by reason thereof, until there is actual alteration. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

The mere filing of petitions sufficient upon their face, without proof of such allegations, is not sufficient to confer jurisdiction upon the city to make the improvements and to assess the costs upon the abutting property, where the jurisdictional facts are put in issue, and injunction will restrain the taxes therefor. City of South Omaha v. Tighe, 67 Neb. 572, 93 N.W. 946 (1903).

The duty devolves on cities and towns to keep streets and sidewalks reasonably safe and fit for travel, and such duty applies to defects in construction, as well as neglect of repair. Village of Plainview v. Mendelson, 65 Neb. 85, 90 N.W. 956 (1902).

§ 16-609.01. Land abutting street; industrial tract or school site; improvement; agreement

Whenever any street of any city of the first class is partly inside the city and partly outside the city, and the land outside the city abutting on such street is an industrial tract or a school site, or the property of the state or any political

subdivision thereof, such street may be included in any street improvement project of the city upon the written agreement thereto of the owner or owners of such land outside the city, which agreement shall subject such land to the assessment of costs of the benefits resulting from the improvement. Except as provided in this section, any such improvement shall be subject to the provisions of sections 16-609 to 16-655.

Source:

Laws 1965, c. 46, § 1, p. 246.

§ 16-610. Public ways; maintenance and repair

The mayor and city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons, and shall cause the same to be kept open and in repair and free from nuisances.

Source:

Laws 1901, c. 18, § 35, p. 239; Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4909; C.S.1922, § 4077; C.S.1929, § 16-606; R.S.1943, § 16-610.

Note:

Contract between city and state prohibiting parking on designated street was upheld. Vap v. City of McCook, 178 Neb. 844">178 Neb. 844, 136 N.W.2d 220">136 N.W.2d 220 (1965).

Duty devolving on cities and villages to keep streets and sidewalks reasonably safe and fit for travel applies to defects in construction as well as neglect to repair, and the safety required extends to travel by night as well as by day. Village of Plainview v. Mendelson, 65 Neb. 85, 90 N.W. 956 (1902).

It is the duty of a city to keep all its streets and bridges in a reasonably safe condition for travel and such care and diligence is not controlled or affected by the fact that they are not as frequently used as some others in the city. City of South Omaha v. Powell, 50 Neb. 798, 70 N.W. 391 (1897).

§ 16-611. Vacation of street or alley; abutting property; how treated

(1) Upon the vacation of any street or alley by the city, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(2) When a portion of a street or alley is vacated only on one side of the center thereof, the title to such property shall vest in the owner of the abutting property and become part of such property unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(3) When the city vacates all or any portion of a street or alley, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(4) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Source:

Laws 1901, c. 18, § 48, IV, p. 145; Laws 1903, c. 19, § 7, p. 237; R.S.1913, § 4910; C.S.1922, § 4078; C.S.1929, § 16-607; R.S.1943, § 16-611; Laws 1969, c. 58, § 2, p. 363; Laws 2001, LB 483, § 5; Laws 2005, LB 161, § 3.

Note:

Where conveyance describes lot by block and number, contains no reservation of rights in alley, conveyance transfers fee to center line of abutting portion of vacated alley even though conveyance also describes lots by metes and bounds which did not include any part of alley and used edge of alley as boundary. Seefus v. Briley, 185 Neb. 202" > 185 Neb. 202, 174 N.W.2d 339" > 174 N.W.2d 339 (1970).

This section is not applicable to vacation of a nominal street of a platted addition. Trahan v. Council Bluffs Steel Erection Co., 183 Neb. 170, 159 N.W.2d 207" > 159 N.W.2d 207 (1968).

This section has no relation to streets which have been platted and dedicated. Dell v. City of Lincoln, 170 Neb. 176" > 170 Neb. 176, 102 N.W.2d 62" > 102 N.W.2d 62 (1960).

Cities own in fee simple, the streets, alleys, etc., and may maintain ejectment, may vacate them, or even sell and dispose of them. Krueger v. Jenkins, 59 Neb. 641, 81 N.W. 844 (1900).

There is no constitutional restraint of the Legislature's plenary power, to vacate or discontinue the public easement on streets. City of Columbus v. Union Pacific R. R. Co., 137 F. 869" > 137 F. 869 (8th Cir. 1905).

§ 16-612. Repealed

History. Laws 1980, LB 660, § 1.

§ 16-613. Bridges; repair; duty of county; aid by city, when

All public bridges within such city, exceeding sixty feet in length, and the approaches thereto, over any stream crossing a county highway, shall be constructed and kept in repair by the county. When any city has constructed or repaired a bridge over sixty-foot span with approaches thereto, on any county highway within its corporate limits, and has incurred a debt for the same, then the treasurer of the county in which said bridge is located shall pay to the treasurer of the city seventy-five percent of all bridge taxes collected in said city until said debt and interest upon the same are fully paid. The city council may appropriate a sum not exceeding five dollars per linear foot to aid in the construction of any county bridge within the limits of such city, or may appropriate a like sum to aid in the construction of any bridge contiguous to said city on a highway leading to the same.

Source:

Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4912; C.S.1922, § 4080; C.S.1929, § 16-609; R.S.1943, § 16-613; Laws 1955, c. 31, § 1, p. 137.

Note:

City is required to exercise reasonable care and diligence in keeping streets and bridges in a safe condition for travel, even though they may not be frequently used by the public. City of South Omaha v. Powell, 50 Neb. 798, 70 N.W. 391 (1897).

§ 16-614. House numbers

The mayor and city council may provide for regulating and requiring the numbering of houses along public streets or avenues.

Source:

Laws 1901, c. 18, § 50, p. 268; R.S.1913, § 4913; C.S.1922, § 4081; C.S.1929, § 16-610; R.S.1943, § 16-614.

§ 16-615. Grade or change of grade; procedure; damages; how ascertained; assessments

The mayor and council shall have power by ordinance to establish the grade of any street, avenue, or alley in the city or within a county industrial area as defined in section 13-1111 contiguous to such city. When the grade of any street, avenue, or alley has been established, the grade of all or any part shall not be changed unless the city clerk has sent notice of the proposed change in grade to the owners of the lots or land abutting upon the street, avenue, or alley or part of a street, avenue, or alley where such change of grade is to be made. The notice shall be sent to the addresses of the owners as they shall appear in the office of the register of deeds upon the date of the mailing of the notice. The notice shall be sent by regular United States mail, postage prepaid, postmarked at least twenty-one days before the date upon which the city council takes final action on approval of the ordinance authorizing the change in grade. The notice shall inform the owner of the nature of the proposed change, that final action by the city council is pending, and of the location where additional information on the project may be obtained. Following the adoption of an ordinance changing the grade of all or any part of a street, avenue, or alley, no change in grade shall be made until the damages to property owners which may be caused by such change of grade are determined as provided in sections 76-704 to 76-724.

For the purpose of paying the damages, if any, so awarded, the mayor and council shall have power to borrow money from any available fund in the amount necessary, which amount, upon the collection of the same by special assessment, shall be transferred from such special fund to the fund from which it has been borrowed. No street, avenue, or alley shall be worked to such grade or change of grade until the damages so assessed shall be tendered to such property owners or their agents. Before the mayor and council enter into any contract to grade any such street, avenue, or alley, the damages, if any, sustained by the property owners, shall be ascertained by condemnation proceedings. For the purpose of paying the damages awarded and the costs of the condemnation proceedings, the mayor and city council shall have power to levy a special tax upon the lots and lands abutting upon such street, avenue, or alley, or part thereof, so graded, as adjudged by the mayor and council to be especially benefited in proportion to such benefits. Such special tax or taxes shall be collected as other special taxes.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4914; C.S.1922, § 4082; C.S.1929, § 16-611; R.S.1943, § 16-615; Laws 1951, c. 101, § 51, p. 470; Laws 1969, c. 81, § 1, p. 412; Laws 1995, LB 196, § 1.

Note:

Claim for injunctive relief on ground of violation of this section was abandoned in Supreme Court. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Recovery could not be had for change in grade of street where only damage resulted from destruction of shade trees. Weibel v. City of Beatrice, 163 Neb. 183">163 Neb. 183, 79 N.W.2d 67">79 N.W.2d 67 (1956).

Where a taxpayer was one of the petitioners for the creation of paving district, and stood by while such improvement was in progress, such taxpayer cannot enjoin the collections of special taxes to pay for such improvement. Kister v. City of Hastings, 108 Neb. 476, 187 N.W. 909 (1922).

Provision for filing of petitions, the assessment and payment of damages, to lot owners, refers to new construction in the creation, opening and improvements of streets, and not to ordinary repairs of streets or alleys. Payment of such repairs, may be made without the levy of special taxes. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

Where a husband had created improvements on his wife's lot he was not entitled to recover damages sustained thereto by city's change in the grade. City of Nebraska City v. Northcutt, 45 Neb. 456, 63 N.W. 807 (1895).

Where land owner joins in petition to grade and pave a street, she is not estopped from claiming damages to her property. City of Beatrice v. Leary, 45 Neb. 149, 63 N.W. 370 (1895).

Church property used exclusively for religious purposes is not exempt from special assessments for local improvements. City of Beatrice v. Brethren Church of Beatrice, 41 Neb. 358, 59 N.W. 932 (1894); Von Steen v. City of Beatrice, 36 Neb. 421, 54 N.W. 677 (1893).

§ 16-616. Repealed

History. Laws 1951, c. 101, §127.

§ 16-617. Improvement districts; power to establish

The mayor and council shall have power to make improvements of any street, streets, alley, alleys, or any part of any street, streets, alley or alleys, in said city, a street which divides the city corporate area and the area adjoining the city, or within a county industrial area as defined in section 13-1111 contiguous to such city, and for that purpose to create suitable improvement districts, which shall be consecutively numbered; and such work shall be done under contract. Such districts may include properties within the corporate limits, adjoining the corporate limits, and within county industrial areas as defined in section 13-1111 contiguous to such cities.

Source:

Laws 1901, c. 18, § 48, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 114; R.S.1913, § 4916; Laws 1915, c. 86, § 1, p. 225; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 191; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-617; Laws 1967, c. 67, § 3, p. 219; Laws 1969, c. 81, § 2, p. 413; Laws 1979, LB 136, § 1.

Note:

City acted within its authority when it made improvements to a street located along the city's corporate limits. Iverson v. City of North Platte, 243 Neb. 506">243 Neb. 506, 500 N.W.2d 574">500 N.W.2d 574 (1993).

Ordinance is required to state the kind of improvement that is proposed to be made. Danielson v. City of Bellevue, 167 Neb. 809">167 Neb. 809, 95 N.W.2d 57">95 N.W.2d 57 (1959).

Where city council found property owner failed to file sufficient objection within twenty days of creation of district, it acted judicially, and unless appealed from such finding was final. Hiddleson v. City of Grand Island, 115 Neb. 287, 212 N.W. 619 (1927).

Under prior act, a petition of the property owners was not necessary for the creation of a paving district. Broghamer v. City of Chadron, 107 Neb. 532, 186 N.W. 362 (1922).

Description in paving ordinance was sufficient. Chittenden v. Kibler, 100 Neb. 756, 161 N.W. 272 (1917).

In absence of a limitation in the act granting it authority to issue bonds, the city had power to levy sufficient taxes to pay the same. United States ex rel. Masslich v. Saunders, 124 F. 124">124 F. 124 (8th Cir. 1903).

§ 16-617.01. Improvement, defined

As used in sections 16-617 to 16-649, improvement shall include but shall not be limited to paving, repaving, graveling, grading, curbing, guttering, and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems and permanent facilities used in connection therewith.

Source:

Laws 1967, c. 67, § 2, p. 219.

§ 16-618. Improvement districts; property included

Any paving district or other improvement district shall include only portions of different streets, or portions of town alleys, or portions of each, which abut or adjoin so that such district, when created, makes up one continuous or extended street or more, except that the district may include a cul de sac, any street, alley, or portion thereof which is closed at one end or which connects with only one other existing street, alley, or portion thereof. Any paving or other improvement district may include portions of different streets, or portions of different alleys, or portions of each, provided they abut or connect with each other, or provided the several portions abut on pavement or gravel already laid, or any other of aforesaid improvements already laid.

Source:

Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-618; Laws 1980, LB 654, § 1.

§ 16-619. Improvement districts; creation; notice

The mayor and council shall first, by ordinance, create a paving, graveling or other improvement district or districts. The mayor and clerk shall, after the passage, approval, and publication of such ordinance, publish notice of the creation of any such district or districts one time each week for not less than twenty days in a daily or weekly newspaper of general circulation published in the city.

Source:

Laws 1915, c. 86, § 1, p. 225; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-619.

Note:

Attack on sufficiency of paving petition could be made by error proceedings. Elliott v. City of Auburn, 172 Neb. 1">172 Neb. 1, 108 N.W.2d 328">108 N.W.2d 328 (1961).

Publication of notice is a mandatory and jurisdictional step. Danielson v. City of Bellevue, 167 Neb. 809">167 Neb. 809, 95 N.W.2d 57">95 N.W.2d 57 (1959).

§ 16-620. Improvements; objections of property owners; effect

If the owners of the record title representing more than fifty percent of the front footage of the property abutting or adjoining any continuous or extended street, cul de sac, or alley of the district, or portion thereof which is closed at one end, and who were such owners at the time the ordinance creating the district was published, shall file with the city clerk, within twenty days from the first publication of said notice, written objections to the improvement of a district, said work shall not be done in said district under said ordinance, but said ordinance shall be repealed. If objections are not filed against any district in the time and manner aforesaid, the mayor and council shall forthwith proceed to construct such improvement.

Source:

Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-620; Laws 1949, c. 20, § 1, p. 90; Laws 1967, c. 67, § 4, p. 219; Laws 1980, LB 654, § 2.

Note:

In passing on sufficiency of paving petition, city council exercises a judicial function. Elliott v. City of Auburn, 172 Neb. 1">172 Neb. 1, 108 N.W.2d 328">108 N.W.2d 328 (1961).

Property owners are given right to object to kind of materials used in improving street. Danielson v. City of Bellevue, 167 Neb. 809">167 Neb. 809, 95 N.W.2d 57">95 N.W.2d 57 (1959).

Ordinance creating special improvement district may be repealed before additional steps have been taken. Brasier v. City of Lincoln, 159 Neb. 12">159 Neb. 12, 65 N.W.2d 213">65 N.W.2d 213 (1954).

§ 16-621. Improvements; materials; kind; petition of landowners; bids; advertisement

In advertising for bids for paving, repaving, graveling or macadamizing, the mayor and council may provide for bids on different materials and types of construction, and shall in addition provide for asking bids on any material or materials that may be suggested by petition of owners of the record title representing twenty-five percent of the abutting property owners in a district, if such petition is filed with the city clerk before advertisement for bids is ordered. On opening of bids for paving or repaving in any such district, the mayor and council shall postpone action thereon for a period of not less than ten days. During said period of postponement, the owners of the record title representing a majority of the abutting property owners in a district may file with the city clerk a petition for the use of a particular material for paving for which a bid has been received, in which event a bid on that material shall be accepted and the work shall be done with that material; *Provided*, the above regulations as to advertising for bids and opening of bids and postponing of action thereon and the right of selection of materials shall not apply in case of graveling. In case such owners fail to designate the material they desire used in such paving or repaving, or macadamizing, in the manner and within the time above provided, the mayor and council shall determine upon the material to be used; *Provided*, the mayor and council may in any event, at their option, reject all bids and readvertise if, in their judgment, the public interest requires.

Source:

Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4034; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-621; Laws 1965, c. 54, § 1, p. 259.

§ 16-621.01. Improvements of streets and alleys; use of salt stabilized base or armor coating, when

A city of the first class may improve its streets and alleys by the use of salt stabilized base or armor coating in the same manner, to the same extent, and with the same limitations as provided by law for paving or repaving such streets or alleys. All provisions of law respecting paving or repaving by a city of the first class shall apply to any improvements made under the authority of this section.

Source:

Laws 1961, c. 45, § 1, p. 177.

§ 16-622. Improvements; assessments; how levied; when delinquent; interest; collection; procedure

The cost of making such improvements of the streets and alleys within any street improvement district shall be assessed upon the lots and lands in such districts specially benefited thereby in proportion to such benefits. The amounts thereof shall, except as provided in sections 19-2428 to 19-2431, be determined by the mayor and council under the provisions of section 16-615. The assessment of the special tax for the cost of such improvements, except as provided in this section, shall be levied at one time and shall become delinquent in equal annual installments over such period of years, not to exceed twenty, as the mayor and city council may determine at the time of making the levy, the first such installment to become delinquent in fifty days after the date of such levy. Each of said installments, including those for graveling and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems, and permanent facilities used in connection therewith as hereinafter provided, except the first, shall draw interest at a rate established by the mayor and council not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of levy until the same shall become delinquent. After the same shall become delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon. Should there be three or more of said installments delinquent and unpaid on the same property the mayor and city council may by resolution declare all future installments on such delinquent property to be due on a future fixed date. The resolution shall set forth the description of the property and the names of its record title owners and shall provide that all future installments shall become delinquent upon the date fixed. A copy of such resolution shall be published one time each week for not less than twenty days in a legal newspaper of general circulation published in the city and after the fixed date such future installments shall be deemed to be delinquent and the city may proceed to enforce and collect the total amount due and all future installments. As to assessments for graveling alone and without guttering or curbing, one-third of the total amount assessed against each lot or parcel of land shall become delinquent in fifty days after the date of the levy of the same, one-third in one year, and one-third in two years.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4917; C.S.1922, § 4085; Laws 1925, c. 50, § 2, p. 193; C.S.1929, § 16-614; Laws 1933, c. 136, § 18, p. 527; C.S.Supp.,1941, § 16-614; R.S.1943, § 16-622; Laws 1953, c. 28, § 1, p. 115; Laws 1955, c. 32, § 1, p. 139; Laws 1959, c. 64, § 1, p. 285; Laws 1959, c. 47, § 1, p. 233; Laws 1967, c. 67, § 5, p. 220; Laws 1972, LB 1213, § 1; Laws 1973, LB 541, § 1; Laws 1980, LB 933, § 10; Laws 1981, LB 167, § 11; Laws 1983, LB 94, § 1.

Note:

This section and section 16-669 require that three payments be delinquent before the city may foreclose, and the city is required to pass and publish an acceleration resolution declaring the entire amount due and owing. City of Kearney v. Johnson, 222 Neb. 541" >222 Neb. 541, 385 N.W.2d 427" >385 N.W.2d 427 (1986).

Rate of interest on paving assessment was governed by home rule charter and not by this section. State ex rel. Martin v. Cunningham, 158 Neb. 708, 64 N.W.2d 465">64 N.W.2d 465 (1954).

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728">141 Neb. 728, 4 N.W.2d 878">4 N.W.2d 878 (1942).

Cities of the first class that adopt a "home rule" charter possess no power to remit or cancel interest or penalties on special taxes. Falldorf v. City of Grand Island, 138 Neb. 212">138 Neb. 212, 292 N.W. 598 (1940).

In absence of a limitation in the act granting it authority to issue bonds, the city had power to levy sufficient taxes to pay the same. United States ex rel. Masslich v. Saunders, 124 F. 124">124 F. 124 (8th Cir. 1903).

§ 16-623. District paving bonds; interest

For the purpose of paying the cost of improving the streets, avenues or alleys in any such district, exclusive of intersections of streets or avenues, or spaces opposite alleys therein, the mayor and council shall have power and may, by ordinance, cause to be issued bonds of the city, to be called Street Improvement Bonds of District No., payable in not exceeding twenty years from date, and bearing interest, payable either annually or semiannually, with interest coupons attached. In such cases they shall also provide that said special taxes and assessments shall constitute a sinking fund for the payment of said bonds; *Provided*, the entire cost of improving any such street, avenue or alley, properly chargeable to any lot or land within any such improvement district according to the front footage thereof, may be paid by the owners of such lots or lands within fifty days from the levying of such special taxes, and thereupon such lot or lands shall be exempt from any lien or charge therefor.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4918; C.S.1922, § 4086; Laws 1925, c. 50, § 3, p. 194; C.S.1929, § 16-615; Laws 1931, c. 32, § 1, p. 123; C.S.Supp.,1941, § 16-615; R.S.1943, § 16-623; Laws 1967, c. 67, § 6, p. 221; Laws 1969, c. 51, § 27, p. 288.

§ 16-624. Improvement districts; creation upon petition; denial; assessments; bonds

Whenever the owners of lots or lands abutting upon any street, avenue, or alley within the city, representing three-fourths of the front footage thereon, so that such district when created will make up one continuous or extended thoroughfare or more, shall petition the mayor and council to make improvement of such street, avenue, or alley without cost to the city, and to assess the entire cost of any such improvements in any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such improvement district or districts, it shall be the duty of the mayor and council to create the proper improvement district or districts, which shall be consecutively numbered, and to improve the same and to proceed in the same manner and form as hereinbefore provided for in other paving and improvement districts; *Provided*, the mayor and council shall have power to levy the entire cost of such improvements of any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such district, and to issue Street Improvement Bonds of District No. to pay for such improvements in the same manner and form as hereinbefore provided for in other improvement bonds. Such bonds shall be issued to cover the entire cost of so improving such streets or avenues, intersections of the same, and spaces opposite alleys. If the assessments hereinbefore provided for, or any part thereof, shall fail, or for any reason shall be invalid, the mayor and council may make other and further assessments upon such lots or lands as may be required to collect from the same the cost of any improvements properly chargeable thereto, as herein provided. The mayor and city council shall have the discretion to deny the formation of the proposed district when the area to be improved has not previously been improved with a water system, sewer system, and grading of streets. If the mayor and city council should deny a requested improvement district formation, they shall state their grounds for such

denial in a written letter to interested parties.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4919; C.S.1922, § 4087; Laws 1925, c. 50, § 4, p. 194; C.S.1929, § 16-616; Laws 1933, c. 27, § 2, p. 203; C.S.Supp.,1941, § 16-616; R.S.1943, § 16-624; Laws 1967, c. 67, § 7, p. 222; Laws 1983, LB 125, § 1.

§ 16-625. Intersections; improvements; railways; duty to pave right-of-way

The cost of improving the intersections of streets or avenues and spaces opposite alleys in such district, except as hereinbefore specially provided, shall be paid by the city as hereinafter provided; but nothing herein contained shall be construed to exempt any street or other railway company from improving with such material as the mayor and council may order, its whole right-of-way including all space between and one foot beyond the outer rails, at its own cost, whenever any street or avenue shall be ordered improved by the mayor and council of the city as provided by law; *Provided*, no street or other railway company shall enter upon or occupy any paved street or avenue, within five years after such paving shall have been completed, until it shall pay into the city treasury the original cost of paving between and one foot beyond the outer rails, which sum shall be credited on the special assessment upon the abutted lots; and if the special assessment shall have been paid, then the money shall be paid, by warrant, to the party who has already paid such special assessment.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4920; C.S.1922, § 4088; Laws 1925, c. 50, § 5, p. 195; C.S.1929, § 16-617; R.S.1943, § 16-625; Laws 1967, c. 67, § 8, p. 223.

§ 16-626. Intersection improvement bonds; amount; interest; warrants; partial payments; final payment; interest; restrictions on work

For all improvements of the intersections and areas formed by the crossing of streets, avenues or alleys, and one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city, the assessment shall be made upon all the taxable property of the city; and for the payment of such improvements, the mayor and council or the city commissioners are hereby authorized to issue improvement bonds of the city in such denominations as they deem proper, to be called Intersection Improvement Bonds, payable in not to exceed twenty years from date of said bonds and to bear interest payable annually or semiannually. Such bonds shall not be issued in excess of the cost of said improvements. For the purpose of making partial payments as the work progresses in making the improvements of streets, avenues, alleys or intersections and areas formed by the crossing of streets, avenues, or alleys, or one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city, warrants may be issued by the mayor and council upon certificates of the engineer in charge showing the amount of the work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost thereof, and upon completion and acceptance of the work issue a final warrant for the balance of the amount due the contractor, which warrants shall be redeemed and paid upon the sale of bonds authorized by law. The city shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the governing body, and running until the date that the warrant is tendered to the contractor. Nothing herein shall be construed as authorizing the mayor and council to make improvements of any intersections or areas formed by the crossing of streets, avenues or alleys, unless in connection with one or more blocks of any of aforesaid kinds or forms of street improvement of which the improvement of such intersection or areas shall form a part.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4921; Laws 1917, c. 96, § 1, p. 259; C.S.1922, § 4089; Laws 1923, c. 146, § 1, p. 360; Laws 1925, c. 50, § 14, p. 201; C.S.1929, § 16-618; R.S.1943, § 16-626; Laws 1965, c. 55, § 1, p. 261; Laws 1967, c. 67, § 9, p. 223; Laws 1969, c. 51, § 28, p. 289; Laws 1974, LB 636, § 1.

§ 16-627. Intersections; improvement; cost; tax levy

The cost and expense of improving, constructing, or repairing streets, avenues, alleys and sidewalks, at their intersections, may be included in the special tax levied for the construction or improvement of any one street, avenue, alley or sidewalk, as may be deemed best by the council.

Source:

Laws 1901, c. 18, § 75, p. 288; R.S.1913, § 4922; C.S.1922, § 4090; C.S.1929, § 16-619; R.S.1943, § 16-627; Laws 1967, c. 67, § 10, p. 224.

§ 16-628. Improvements; tax; when due

Such special taxes shall be due and may be collected as the improvements are completed in front of or along or upon any block or piece of ground, or at the time the improvement is entirely completed or otherwise, as shall be provided in the ordinance levying the tax.

Source:

Laws 1901, c. 18, § 76, p. 288; R.S.1913, § 4923; C.S.1922, § 4091; C.S.1929, § 16-620; R.S.1943, § 16-628.

§ 16-629. Curbs and gutters; authorized; petition; formation of district; bonds

Curbing and guttering shall not be required or ordered to be laid on any street, avenue or alley not ordered to be paved, repaved, graveled or macadamized, except on a petition of the owners of two-thirds of the front footage of property abutting along the line of that portion of the street, avenue or alley which is to be curbed or guttered.

When such petition is presented, a curbing and guttering district shall be formed, which district shall be governed by the provisions of section 16-630. Any bonds issued on account of such district shall be known as Bonds of Curbing and Guttering District No.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4924; C.S.1922, § 4092; Laws 1925, c. 50, § 6, p. 196; C.S.1929, § 16-621; R.S.1943, § 16-629; Laws 1965, c. 56, § 1, p. 263.

§ 16-630. Curbing and guttering bonds; interest rate; assessments; how levied

Whenever curbing, or curbing and guttering, is done upon any street, avenue or alley in any paving, repaving, graveled or macadamizing district in which paving or other such improvement aforesaid has been ordered, and the

mayor and council shall deem it expedient to do so, they shall have the power and authority, for the purpose of paying the cost of such curbing, or curbing and guttering, to cause to be issued bonds of the city, to be called Curbing and Guttering Bonds of Paving District No., payable in not exceeding ten years from date, bearing interest, payable annually or semiannually, with interest coupons attached. In all cases they shall assess at one time the total cost of such curbing and guttering, or curbing, as the case may be, upon the property abutting or adjacent to the portion of the street, avenue or alley so improved, according to the special benefits. Such assessments shall become delinquent the same as the assessments of special taxes for paving, repaving, graveling or macadamizing purposes, draw the same rate of interest, be subject to the same penalties, and may be paid in the same manner, as special taxes for said purpose. The special tax so assessed shall constitute a sinking fund for the payment of such bonds and interest, and the bonds shall not be sold for less than their par value.

Source:

Laws 1901, c. 18, § 48, LV, p. 267; Laws 1901, c. 19, § 4, p. 315; Laws 1907, c. 13, § 1, p. 119; R.S.1913, § 4925; Laws 1915, c. 87, § 1, p. 226; C.S.1922, § 4093; Laws 1925, c. 50, § 7, p. 196; C.S.1929, § 16-622; R.S.1943, § 16-630; Laws 1945, c. 21, § 1, p. 128; Laws 1969, c. 51, § 29, p. 290.

Note:

Under prior act, where street had been reduced to grade, and only limited expense was necessary to complete the work, engineer's estimate, advertisement, etc., for bids was not necessary, and city was permitted to pay for such work out of proper city funds. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

§ 16-631. Curbing and guttering; cost; paving bonds may include

Where an improvement district has been established, an improvement thereon constructed, and curbing or guttering is therewith constructed, and it becomes necessary to issue and sell street improvement bonds to pay for the cost of construction of same, and also for the cost of construction of the curbing, or curbing and guttering, the mayor and city council may, at their discretion, if they deem the same advisable, include the cost of curbing, or curbing and guttering, with the cost of the other improvement in said paving or other improvement district, and issue bonds for the combined cost of the improvement and curbing, or curbing and guttering, in any of said districts, naming the bonds Street Improvement Bonds of District No. The amount of money necessary for the payment of said bonds shall be levied upon and collected from abutting and adjacent property, and property specially benefited, the same as is provided for collection of a special tax for the payment of street improvement bonds.

Source:

Laws 1915, c. 87, § 1, p. 227; C.S.1922, § 4093; Laws 1925, c. 50, § 7, p. 197; C.S.1929, § 16-622; R.S.1943, § 16-631; Laws 1967, c. 67, § 11, p. 224.

§ 16-632. Improvements; assessments; when authorized; ordinary repairs excepted

In order to defray the costs and expenses of such improvements or any of them, the mayor and council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to or abutting upon the street, avenue, alley or sidewalk, thus in whole or in part improved or repaired or which may be specially benefited by such improvements; *Provided*, the above provisions shall not apply to ordinary repairs of streets or alleys, and the cost of such repair shall be paid out of the road fund; and the mayor and council are authorized to draw warrants against said fund not to exceed eighty-five percent of the amount levied as soon as levy shall be made by the county board.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4926; C.S.1922, § 4094; Laws 1925, c. 50, § 8, p. 198; C.S.1929, § 16-623; R.S.1943, § 16-632; Laws 1967, c. 67, § 12, p. 225.

Note:

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728" >141 Neb. 728, 4 N.W.2d 878" >4 N.W.2d 878 (1942).

Section refers to proceedings for the creation, opening, and improvements of streets by new construction work, and not to ordinary repairs. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

§ 16-633. Improvements; assessments against public lands

If, in any city of the first class, there shall be any real estate belonging to any county, school district, city, municipal or other quasi-municipal corporation abutting upon the street, avenue or alley whereon paving or other special improvements have been ordered, it shall be the duty of the county board, board of education or other proper officers to pay such special taxes; and, in the event of the neglect or refusal of such board or other officers to pay such taxes, or to levy and collect the taxes necessary to pay for such improvements, the city may recover the amount of such special taxes in a proper action. The judgment thus obtained may be enforced in the usual manner, and the signatures of such corporations to all petitions shall have like force and effect as that of other owners.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4927; C.S.1922, § 4095; C.S.1929, § 16-624; R.S.1943, § 16-633.

Note:

Though church property, used exclusively for church purposes, is exempt from general taxation under the Constitution, such property is not exempt from special assessments for local improvements. City of Beatrice v. Brethren Church of Beatrice, 41 Neb. 358, 59 N.W. 932 (1894).

Officers representing state, county, or school districts, may not sign petition for paving on behalf of the property of the district they represent. Von Steen v. City of Beatrice, 36 Neb. 421, 54 N.W. 677 (1893).

§ 16-634. Improvements; real estate owned by minor or protected person; petition; guardian may sign

If, in any city of the first class, there shall be any real estate of any minor or protected person, the guardian or conservator of such minor or protected person may sign any petition herein referred to, and such signature shall have like force and effect as that of other owners.

Source:

Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4928; C.S.1922, § 4096; C.S.1929, § 16-625; R.S.1943, § 16-634; Laws 1975, LB 481, § 3.

§ 16-635. Improvements; terms, defined; depth to which assessable

The word lot as used herein shall be taken to mean lot as described and designated upon the record plat of any such city, or within a county industrial area as defined in section 13-1111 contiguous to such city; and in case there is no recorded plat of any such city or county industrial area, it shall mean a lot as described and designated upon any generally recognized map of any such city or county industrial area. The word land shall mean any subdivided or unplatted real estate in such city or county industrial area; *Provided*, if the lots and real estate abutting upon that part of the street ordered improved, as shown upon any recorded plat or map, are not of uniform depth, or, if for any reason, it shall appear just and proper to the mayor and council, they are authorized and empowered to determine and establish the depth to which such real estate shall be charged and assessed with the costs of the improvement, which shall be determined and established according to the benefits accruing to the property by reason of such improvements. Real estate may be so charged and assessed to a greater depth than lots as shown on any such plat or map.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4929; C.S.1922, § 4097; Laws 1925, c. 50, § 9, p. 198; C.S.1929, § 16-626; R.S.1943, § 16-635; Laws 1967, c. 67, § 13, p. 225; Laws 1969, c. 81, § 3, p. 414.

Note:

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728"141 Neb. 728, 4 N.W.2d 878"4 N.W.2d 878 (1942).

§ 16-636. Improvement districts; land which council may include

The mayor and council may, in their discretion, include all the real estate to be charged and assessed with the cost of such improvements in the improvement districts hereinbefore provided for, but are not required to do so; and the mayor and council may, in their discretion, in determining whether the requisite majority of owners who are hereinbefore authorized to petition for improvements, and to object to the improvements and to determine the kind of material to be used therefor, have joined in such petition, determination or objections, consider and take into account all the owners of real estate to be charged and assessed with the cost of any of said improvements, or only such as own lots, parts of lots, and real estate which, in fact, abut upon the part of the street, avenue or alley proposed to be so improved. The provisions of this section, in regard to the depth to which real estate may be charged and assessed, shall apply to all special taxes that may be levied by the mayor and council in any such city in proportion to the front footage.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4930; Laws 1917, c. 95, § 1, p. 255; C.S.1922, § 4098; Laws 1925, c. 50, § 10, p. 199; C.S.1929, § 16-627; R.S.1943, § 16-636; Laws 1967, c. 67, § 14, p. 226.

§ 16-637. Improvements; assessments; action to recover

Any party feeling aggrieved by any special tax or assessment, or proceeding for improvements, may pay the said special taxes assessed and levied upon his, her or its property, or such installments thereof as may be due at any time before the same shall become delinquent, under protest, and with notice in writing to the city treasurer that he, she or it intends to sue to recover the same, which notice shall particularly state the alleged grievance and the ground thereof. Such party shall have the right to bring a civil action within sixty days thereafter, and not later, to recover so much of the special tax paid as he, she or it shows to be illegal, inequitable and unjust, the costs to follow the judgment or to be apportioned by the court, as may seem proper, which remedy shall be exclusive. The city treasurer shall promptly report all such notices to the city council for such action as may be proper. No court shall entertain any complaint that the party was authorized to make and did not make to the city council, sitting as a board of equalization, nor any complaint not specified in said notice fully enough to advise the city of the exact nature thereof, nor any complaint that does not go to

the groundwork, equity, and justness of such tax. The burden of proof to show such tax or part thereof invalid, inequitable and unjust shall rest upon the party who brings the suit.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907; c. 13, § 1, p. 111; R.S.1913, § 4931; C.S.1922, § 4099; Laws 1925, c. 50, § 11, p. 199; C.S.1929, § 16-628; R.S.1943, § 16-637; Laws 1967, c. 67, § 15, p. 226.

Note:

A special tax assessment which violates the federal Constitution is illegal, and thus a claim that a special tax assessment violates the federal Constitution can be raised and adjudicated in claims made under this section. Francis v. City of Columbus, 267 Neb. 553">267 Neb. 553, 676 N.W.2d 346">676 N.W.2d 346 (2004).

As a prerequisite to bringing suit for a refund under this section, a party must pay the tax under protest before it becomes delinquent. Francis v. City of Columbus, 267 Neb. 553">267 Neb. 553, 676 N.W.2d 346">676 N.W.2d 346 (2004).

This section provides an adequate remedy for adjudicating a claim that a special tax assessment violates the federal Constitution. Francis v. City of Columbus, 267 Neb. 553">267 Neb. 553, 676 N.W.2d 346">676 N.W.2d 346 (2004).

City may not take property for street improvement by eminent domain, and then nullify the value of the property taken by levying local assessment for the improvement in excess of the special benefits conferred. Hayman v. City of Grand Island, 135 Neb. 873">135 Neb. 873, 284 N.W. 737 (1939).

Where there is a variation between the established gradeline and the permanent street improvement, failure of property owner, who knows such fact while the work is progressing, to file timely objections to the assessment because of such defect, will estop him from raising the question under this section by injunction. Kister v. City of Hastings, 108 Neb. 476, 187 N.W. 909 (1922).

§ 16-638. Repealed

History. Laws 1963, c. 339,§1.

§ 16-639. Repealed

History. Laws 1963, c. 339,§1.

§ 16-640. Repealed

History. Laws 1963, c. 339,§1.

§ 16-641. Repealed

History. Laws 1963, c. 339, §1.

§ 16-642. Repealed

History. Laws 1963, c. 339, §1.

§ 16-643. Repealed

History. Laws 1963, c. 339, §1.

§ 16-644. Repealed

History. Laws 1963, c. 339, §1.

§ 16-645. Damages caused by construction; procedure

In all cases of damages arising from the creation or widening of new streets, avenues, or alleys, from the appropriation of property for sewers, parks, parkways, public squares, public heating plants, power plants, gas works, electric light plants, waterworks, or market places, and from change of grade in streets, avenues, or alleys, the damages sustained shall be ascertained and determined as provided in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable.

Source:

Laws 1901, c. 18, § 53, p. 271; Laws 1903, c. 19, § 12, p. 243; R.S.1913, § 4937; C.S.1922, § 4105; C.S.1929, § 16-634; R.S.1943, § 16-645; Laws 1951, c. 101, § 52, p. 471; Laws 2002, LB 384, § 23.

Note:

Objections as to lack of notice were waived by appeal from award of appraisers. Webber v. City of Scottsbluff, 155 Neb. 48">155 Neb. 48, 50 N.W.2d 533">50 N.W.2d 533 (1951).

Damage for opening of street was separate cause of action from annexation of territory. City of Alliance v. Cover-Jones Motor Co., 154 Neb. 900, 50 N.W.2d 349">50 N.W.2d 349 (1951).

The owner has right of appeal from board's decision to the district court. Stuhr v. City of Grand Island, 123 Neb. 369">123 Neb. 369, 243 N.W. 80 (1932), vacated on rehearing, 124 Neb. 285">124 Neb. 285, 246 N.W. 461 (1933).

Property owner is entitled to a jury trial to determine his damages. Grantham v. City of Chadron, 20 F.2d 40">20 F.2d 40 (8th Cir. 1927).

Cross References:

Municipal Natural Gas System Condemnation Act, see section 19-4624.

§ 16-646. Special taxes; lien upon property; collection

In every case of the levy of special taxes, the same shall be a lien on the property on which levied from date of levy and shall be due and payable to the city treasurer thirty days after such levy when not otherwise provided; and, at the time of the next certification for general revenue purposes to the county clerk, if not previously paid, the special taxes, except paving, repaving, graveling, macadamizing, and curbing or curbing and guttering shall be certified to the county clerk and by him be placed upon the tax list and be collected as other real estate taxes are collected, and be paid over to the city treasurer; and paving, repaving, graveling, macadamizing and curbing, or curbing and guttering taxes may be so certified and collected by the county treasurer at the option of said city.

Source:

Laws 1901, c. 18, § 77, p. 288; Laws 1903, c. 19, § 14, p. 245; R.S.1913, § 4938; Laws 1917, c. 95, § 1, p. 255; C.S.1922, § 4106; Laws 1925, c. 50, § 12, p. 200; C.S.1929, § 16-635; R.S.1943, § 16-646.

Note:

Special assessment was a lien at time of foreclosure, and could have been included in tax foreclosure proceeding. Dent v. City of North Platte, 148 Neb. 718">148 Neb. 718, 28 N.W.2d 562">28 N.W.2d 562 (1947).

§ 16-647. Special taxes; payment by part owner

It shall be sufficient in any case to describe the lot or piece of ground as the same is platted and recorded although the same belongs to several persons; but, in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his portion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Source:

Laws 1901, c. 18, § 78, p. 289; R.S.1913, § 4939; C.S.1922, § 4107; C.S.1929, § 16-636; R.S.1943, § 16-647.

§ 16-648. Money from special assessments; how used

All money received from special assessments may be applied to pay for the improvement for which assessed, or applied to reimburse the fund of the city from which the cost of the improvement may have been made.

Source:

Laws 1901, c. 18, § 79, p. 289; Laws 1903, c. 19, § 15, p. 245; R.S.1913, § 4940; C.S.1922, § 4108; C.S.1929, § 16-637; R.S.1943, § 16-648.

§ 16-649. Improvements; contracts; bids; requirement

All improvements of any streets, avenues or alleys in the city for which, or any part thereof, a special tax shall be levied, shall be done by contract with the lowest responsible bidder to be determined by the council.

Source:

Laws 1901, c. 18, § 74, p. 288; R.S.1913, § 4941; C.S.1922, § 4109; Laws 1925, c. 50, § 13, p. 201; C.S.1929, § 16-638; R.S.1943, § 16-649; Laws 1967, c. 67, § 16, p. 227.

Note:

Engineer may estimate total work and need not do so by item, and where bids are called for on four different kinds of material, and the contract is let for one of the kinds shown in the advertisement for bids, such estimate and advertisement for bids are sufficient. Wurdeman v. City of Columbus, 100 Neb. 134, 158 N.W. 924 (1916).

§ 16-650. Public improvements; acceptance by city engineer; approval or rejection by council

When any improvement is completed according to contract, it shall be the duty of the city engineer to carefully inspect the same; and, if the improvement is found to be properly done, such engineer shall accept the same, and forthwith report his acceptance thereof to the board of public works or mayor, who shall report the same to the council with recommendation that the same be approved or disapproved; and the city council may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as the improvement is completed in front of or along any block or piece of ground, the engineer may accept the same in sections from time to time, if found to be done according to the contract, reporting his acceptance as in other cases.

Source:

Laws 1901, c. 18, § 66, p. 278; R.S.1913, § 4942; C.S.1922, § 4110; C.S.1929, § 16-639; R.S.1943, § 16-650.

§ 16-651. Grading and grading districts

Whenever the owners of lots and lands abutting upon any street or alley, or part thereof, within the city, representing two-thirds of the feet front abutting upon such part of street or alley desired to be graded, shall petition the council to grade such street or alley, or part thereof, without cost to the city, the mayor and council shall order the grading done and assess the costs thereof against the property abutting upon such street or alley or such part thereof so graded. For this purpose the mayor and council shall create suitable grading districts, which shall be consecutively numbered.

Source:

Laws 1901, c. 18, § 73, p. 285; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-651.

Note:

Petition signed as required is necessary prerequisite. City of South Omaha v. Tighe, 67 Neb. 572, 93 N.W. 946 (1903).

§ 16-652. Grading; assessments; when delinquent

The cost of grading the streets and alleys within any such grading district shall be assessed upon the lots and lands specially benefited thereby in such district in proportion to such benefits, to be determined by the mayor and council under the provisions of section 16-615. The assessment of special taxes for grading purposes herein provided for shall

be levied at one time and shall become delinquent as follows: One-fifth of the total amount shall become delinquent in fifty days after such levy; one-fifth in one year; one-fifth in two years; one-fifth in three years; one-fifth in four years. Each of said installments, except the first, shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of the levy aforesaid until the same shall become delinquent; and, after the same shall become delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon, as in the case of other special taxes. The cost of grading the intersections of streets and spaces opposite alleys in any such district shall be paid by the city out of the general fund of such city.

Source:

Laws 1901, c. 18, § 73, p. 286; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-652; Laws 1980, LB 933, § 11; Laws 1981, LB 167, § 12.

§ 16-653. Grading bonds; interest rate

For the purpose of paying the costs of grading the streets and alleys in such district, exclusive of the intersection of streets and spaces opposite alleys therein, the mayor and council shall have power, and may, by ordinance, cause to be issued bonds of the city, to be called District Grading Bonds of District No., payable in not exceeding five years from date and to bear interest, payable annually or semiannually, with interest coupons attached, and that as nearly as possible an equal amount of the bonds shall be made to mature each year, and in such case shall also provide that such special taxes and assessments shall constitute a sinking fund for the payment of said bonds and interest; *Provided*, the entire cost of grading any such street or alley properly chargeable to any lots or lands within any such grading district, according to feet front thereof, may be paid by the owner of such lots or lands within fifty days from the levy of such special taxes; and thereupon such lot or land shall be exempt from any lien or charge therefor.

Source:

Laws 1901, c. 18, § 73, p. 285; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-653; Laws 1945, c. 21, § 2, p. 129; Laws 1969, c. 51, § 30, p. 290.

§ 16-654. Grading upon petition; assessments; bonds

Whenever the owner of lots and lands abutting upon any street or avenue, alley or lane, or part thereof, representing three-fourths of the feet front abutting upon any such street or avenue, alley or lane, or part thereof, shall petition the mayor and council to grade the same, including the intersections of streets, avenues, or lanes and spaces opposite alleys and lanes, without cost to the city, and to assess the entire cost of grading such street, avenue, alley or lane or part thereof, including the intersections of streets, avenues or lanes and spaces opposite alleys or lanes, against the lots and lands abutting upon such street, avenue, alley or lane, or part thereof, so graded, thereupon the mayor and council shall create grading districts, make assessments, issue bonds, and proceed in the same manner as in cases of grading hereinbefore provided; *Provided*, bonds shall be issued to cover the entire cost of grading both the streets, avenues or alleys, and the intersections of streets or avenues and spaces opposite alleys.

Source:

Laws 1901, c. 18, § 73, p. 287; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-654.

§ 16-655. Grading bonds; amount; sale; damages; how ascertained

The aggregate amount of such bonds issued in any one year shall not exceed fifty thousand dollars, and shall not

be sold for less than their par value. If any assessment or part thereof shall fail or for any reason be invalid, the mayor and council may make such further assessments upon said lots or lands, as may be required, and collect from the owners the cost of any grading properly chargeable thereto, as herein provided; *Provided*, no street, avenue, alley or lane shall be so graded until the damages to property owners, if any, shall be ascertained by three disinterested freeholders to be appointed by the mayor and council and the proceedings to be the same in all respects as provided in section 16-615 for cases of change of grade.

Source:

Laws 1901, c. 18, § 73, p. 287; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-655.

Note:

Council is without power to grade or change the grade of a street, including the sidewalk space, until damages are ascertained and paid. Shewell v. City of Nebraska City, 52 Neb. 138, 71 N.W. 952 (1897).

STATEMENT OF COSTS
CAPITAL AVENUE IMPROVEMENTS - SID 1256
STPAA-5436 (4) CN 42427
GRAND ISLAND, NEBRASKA - 2008

Construction Costs	
Sanitary Sewer Construction Costs	\$831,963.45
Roadway Construction Costs	\$3,114,493.90
Total Construction	\$3,946,457.35
Engineering Costs	
Engineering Design for Roadway	\$242,257.20
Engineering Design for Sanitary Sewer	\$36,680.28
Total Engineering Design Costs	\$278,937.48
Construction Engineering for Roadway	\$357,003.47
Construction Engineering for Sanitary Sewer	\$101,933.53
Total Construction Engineering Costs	\$458,937.00
Total Costs	\$4,684,331.83
Division of Costs	
Assessments	
Amount Assessable to Property Owners	
Amount Assessable to City	
Total Assessments	\$734,834.00
Federal Highway Transportation Funds for Construction Engineering Costs	
Roadway FHWA Reimbursements	\$264,269.19
Sanitary Sewer FHWA Reimbursements	\$13,876.36
Federal Highway Transportation Funds for Construction Engineering	\$283,145.55
Federal Highway Transportation Funds for Construction Costs	
Roadway FHWA Reimbursements	\$2,488,294.03
Sanitary Sewer FHWA Reimbursements	\$177,789.26
Total FHWA Reimbursements for Construction	\$2,666,083.29
Private Party Costs	\$29,356.05
City Sanitary Sewer Department Costs	725,070.31
City Streets Department Costs	\$247,844.66

Resolution #2011-BE-8 was referred to the January 10, 2012 City Council meeting by the City Council at their December 20, 2011 meeting.

RESOLUTION 2011-BE-8


BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, sitting as a Board of Equalization for Street Improvement District No. 1256, after due notice having been given thereof, that we find and adjudge:

That the benefits accruing to the real estate in such District No. 1256 to be the total sum of \$732,831.98; and

Such benefits are equal and uniform; and

According to the equivalent frontage of the respective lots, tracts, and real estate within such Street Improvement District No. 1256, such benefits are the sums set opposite the several descriptions as follows:

<u>Name</u>	<u>Description</u>	<u>Assessment</u>
<u>Street Improvement District No. 1256</u>		
The Pinnacle Agency LLC	Lot 10, Bosselman 2 nd Subdivision	\$6,047.96
The Pinnacle Agency LLC	Lot 11, Bosselman 2 nd Subdivision	\$34,271.79
Dale L & Shirley Skow	Lot 12, Bosselman 2 nd Subdivision	\$44,335.36
Mid Nebraska Foundation Inc.	Lot 13, Bosselman 2 nd Subdivision	\$7,831.63
Bosselman Inc.	S 100' Lot 1, Bosselman Subdivision	\$2,878.83
Bosselman Inc.	Lot 2, Bosselman Subdivision	\$34,606.93
Bluestem Properties LLC	Lot 3, Bosselman Subdivision	\$37,497.37
Bluestem Properties LLC	Lot 4, Bosselman Subdivision	\$3,289.69
Casey Retail Copmany	Lot 1, Block 1, Dickey Subdivision	\$28,792.34
Library Restaurant & Lounge Inc.	S 64' of S ½ Lot 2, Block 1, Dickey Subdivision	\$1,044.28
Robert D & Patricia J Hancock	Lot 1, Bels 2 nd Subdivision	\$7,815.74
Robert D & Patricia J Hancock	Lot 2, Bels 2 nd Subdivision	\$7,975.25
Robert D & Patricia J Hancock	Lot 3, Bels 2 nd Subdivision	\$7,975.25
Robert D & Patricia J Hancock	Lot 4, Bels 2 nd Subdivision	\$7,975.25
Janiece Jones Trustees	Lot 5, Bels 2 nd Subdivision	\$7,975.25
Janiece Jones Trustees	Lot 6, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 7, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 8, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 9, Bels 2 nd Subdivision	\$7,975.25
Thomas J Lemke	Lot 2, Lemke Subdivision	\$3,370.73
Jeff & Jamie A Vinson	Lot 1, Lemke Subdivision	\$12,579.76
City of Grand Island	Part of SE ¼, SE ¼ of Section 1-11-10	\$29,836.62
	Detention Cell D-1	
O'Connor Enterprises Inc.	Parcel 1: A part of the SE ¼ of Section 1-11-10	\$37,023.90
	West of the 6 th p.m., described as follows, to-wit:	
	Commencing at a point at the SE corner of Section	
	1-11-10, running N 165' parallel to the center of the	
	Road along the E section line; thence running in a	
	westerly direction 264' parallel to the center of the	
	road, along the S side of said Section; thence E 264'	
	to the place of beginning, except a certain tract	
	deeded to the City of Grand Island recorded as	
	Document No.83-003899, Hall County, Nebraska.	
	And part of the SE ¼ of Section 1-11-10 west of the	

Approved as to Form 
December 19, 2011 ☒ City Attorney

6th p.m., more particularly described as follows:
Beginning at a point on the E line of said SE ¼, which point is 165' N of the SE corner of said SE ¼ of said Section, running thence N along the E line of said SE ¼ 165', running thence W parallel to the S line of said SE ¼ of said Section 264', running thence S parallel to the E line of said SE ¼, 165', running thence E parallel to the S line of said SE ¼ 264' to the actual point of beginning.

Northwest Crossings LLC DBA Gateway Shopping Center	Lot 1, Bels Subdivision	\$6,899.52
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 2, Bels Subdivision	\$6,851.13
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 3, Bels Subdivision	\$6,794.69
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 4, Bels Subdivision	\$6,753.56
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 5, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 6, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 7, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 8, Bels Subdivision	\$6,167.84
Gordman Grand Island LLC	N 300' of Lot 4, Grand Island Plaza Subdivision	\$28,191.49
Gordman Grand Island LLC	Lot 3, Grand Island Plaza Subdivision	\$52,100.57
Gordman Grand Island LLC	Lot 2, Grand Island Plaza Subdivision	\$9,016.88
Gordman Grand Island LLC	A tract of land comprising of part of the E ½ of the NE ¼ of Section 12-11-10 west of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Commencing at a point 75' E of the NW corner of said E ½ NE ¼ on the N line of said E ½ NE ¼; thence continuing easterly along the N line of said E ½ NE ¼ a distance of 200'; thence southerly and parallel to the westerly line of said E ½ NE ¼ a distance of 217.8'; thence westerly and parallel to the N line of said E ½ NE ¼ a distance of 200' to a point on the easterly right of way of US Highway No. 281; thence northerly along and upon the E right of way line of US Highway No. 281 a distance of 217.8' to the point of beginning.	\$29,346.33
John R Menard	Lot 6, Menard 2 nd Subdivision	\$38,567.49
Southeast Crossing LLC	Lot 7, Menard 2 nd Subdivision	\$1,069.20
City of Grand Island	Pt NW ¼, NE ¼, Section 12-11-10 Detention Cell C-1	\$59,553.89
John R Menard	Lot 3, Menard 2 nd Subdivision	\$20,455.15
John R Menard	Lot 2, Menard 2 nd Subdivision	\$37,756.19
City of Grand Island Utilities Substation	Beginning at the N ¼ corner of Section 12-11-10 West of the 6 th p.m.; thence on an assumed bearing of S 89°20'09" E along the N line of the NW ¼ of the NE ¼ of said Section 12, a distance of 75'; thence S 00° 03' 30" E along a line parallel to the W line of the NW ¼ of the NE ¼ of said Section 12, a distance	\$13,895.80

of 33' to the S right of way line of Capital Avenue; thence continuing s 00° 03' 30" E , a distance of 237'; thence s 89° 20' 09" E, a distance of 248'; thence N 89° 20' 09" W along a line parallel to the N line of the NW ¼ of the NE ¼ of said Section 12 a distance of 323' to a point on the W line of the NW ¼ of the NE ¼ of said Section 12; thence N 00° 03' 30" W along the W line of the NW ¼ of the NE ¼ of said Section 12, a distance of 537' to the S right of way line of Capital Avenue; thence continuing N 00° 03' 30" W, a distance of 33' to the point of beginning, containing 2.68 acres, more or less, all as shown on the plat marked Exhibit "A", dated 7-18-95, attached hereto and incorporated herein by reference.

City of Grand Island	Part of NE ¼, NW 1/4 of Section 12-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
City of Grand Island	Part of SE ¼ of SW ¼, Section 1-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
WBP Partnership	Part of the E ½ of the NE ¼ of Section 12-11-10 West of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Beginning at a point on the Section line, said point being 200; S of the NE corner of said Section 12; running thence W and parallel to the N section line of said Section 12, a distance of 418'; running thence S parallel to the E section line of said Section 12, a distance of 228'; running thence E parallel to the N section line of said Section 12, a distance of 418'; running thence N on the section line of said Section 12, a distance of 228' to the point of beginning, except for parts deeded in Deeds recorded as Document No. 83-004647 and Document No. 84-001480 in the Register of Deeds Office, Hall County, Nebraska.	\$8,382.48

TOTAL

\$32,831.98

Adopted by the City Council of the City of Grand Island, Nebraska, December 20, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Ordinance No. 9351 was referred to the January 10, 2012 City Council meeting by the City Council at their December 20, 2011 meeting.

This Space Reserved for Register of Deeds

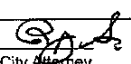
ORDINANCE NO. 9351

An ordinance assessing and levying a special tax to pay the cost of construction of Street Improvement District No. 1256 of the City of Grand Island, Nebraska; providing for the collection of such special tax; repealing any provisions of the Grand Island City Code, ordinances, and parts of ordinances in conflict herewith; and to provide 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. There is hereby assessed upon the following described lots, tracts and parcels of land specially benefited, for the purpose of paying the cost of construction of said street improvements in said Street Improvement District No. 1256, as adjudged by the Mayor and Council of the City, to the extent of benefits thereto by reason of such improvement, after due notice having been given thereof as provided by law; and a special tax for such cost of construction is hereby levied at one time upon such lots, tracts and land as follows:

<u>Name</u>	<u>Description</u>	<u>Assessment</u>
<u>Street Improvement District No. 1256</u>		
The Pinnacle Agency LLC	Lot 10, Bosselman 2 nd Subdivision	\$6,047.96
The Pinnacle Agency LLC	Lot 11, Bosselman 2 nd Subdivision	\$34,271.79
Dale L & Shirley Skow	Lot 12, Bosselman 2 nd Subdivision	\$44,335.36

Approved as to Form ☒ 
December 19, 2011 ☒ City Attorney

ORDINANCE NO. 9351 (Cont.)

Mid Nebraska Foundation Inc.	Lot 13, Bosselman 2 nd Subdivision	\$7,831.63
Bosselman Inc.	S 100' Lot 1, Bosselman Subdivision	\$2,878.83
Bosselman Inc.	Lot 2, Bosselman Subdivision	\$34,606.93
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Bluestem Properties LLC	Lot 4, Bosselman Subdivision	\$3,289.69
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Buck's Rental Inc.	Lot 9, Bels 2 nd Subdivision	\$7,975.25
Thomas J Lemke	Lot 2, Lemke Subdivision	\$3,370.73
Jeff & Jamie A Vinson	Lot 1, Lemke Subdivision	\$12,579.76
City of Grand Island	Part of SE ¼, SE ¼ of Section 1-11-10 Detention Cell D-1	\$29,836.62
O'Connor Enterprises Inc.	Parcel 1: A part of the SE ¼ of Section 1-11-10 West of the 6 th p.m., described as follows, to-wit: Commencing at a point at the SE corner of Section 1-11-10, running N 165' parallel to the center of the Road along the E section line; thence running in a westerly direction 264' parallel to the center of the road, along the S side of said Section; thence E 264' to the place of beginning, except a certain tract deeded to the City of Grand Island recorded as Document No.83-003899, Hall County, Nebraska. And part of the SE ¼ of Section 1-11-10 west of the 6 th p.m., more particularly described as follows: Beginning at a point on the E line of said SE ¼, which point is 165' N of the SE corner of said SE ¼ of said Section, running thence N along the E line of said SE ¼ 165', running thence W parallel to the S line of said SE ¼ of said Section 264', running thence S parallel to the E line of said Se ¼, 165', running thence E parallel to the S line of said Se ¼ 264' to the actual point of beginning.	\$37,023.90
Northwest Crossings LLC	Lot 1, Bels Subdivision	\$6,899.52
DBA Gateway Shopping Center	Lot 2, Bels Subdivision	\$6,851.13
Northwest Crossings LLC	Lot 3, Bels Subdivision	\$6,794.69
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DBA Gateway Shopping Center	Lot 6, Bels Subdivision	\$6,733.40
Northwest Crossings LLC		

ORDINANCE NO. 9351 (Cont.)

Northwest Crossings LLC DBA Gateway Shopping Center	Lot 7, Bels Subdivision	\$6,733.40
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Gordman Grand Island LLC	A tract of land comprising of part of the E ½ of the NE ¼ of Section 12-11-10 west of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Commencing at a point 75' E of the NW corner of said E ½ NE ¼ on the N line of said E ½ NE ¼; thence continuing easterly along the N line of said E ½ NE ¼ a distance of 200'; thence southerly and parallel to the westerly line of said E ½ NE ¼ a distance of 217.8'; thence westerly and parallel to the N line of said E ½ NE ¼ a distance of 200' to a point on the easterly right of way of US Highway No. 281; thence northerly along and upon the E right of way line of US Highway No. 281 a distance of 217.8' to the point of beginning.	\$29,346.33
John R Menard	Lot 6, Menard 2 nd Subdivision	\$38,567.49
Southeast Crossing LLC	Lot 7, Menard 2 nd Subdivision	\$1,069.20
City of Grand Island	Pt NW ¼, NE ¼, Section 12-11-10 Detention Cell C-1	\$59,553.89
John R Menard	Lot 3, Menard 2 nd Subdivision	\$20,455.15
John R Menard	Lot 2, Menard 2 nd Subdivision	\$37,756.19
City of Grand Island Utilities Substation	Beginning at the N ¼ corner of Section 12-11-10 West of the 6 th p.m.; thence on an assumed bearing of S 89°20'09" E along the N line of the NW ¼ of the NE ¼ of said Section 12, a distance of 75'; thence S 00° 03' 30" E along a line parallel to the W line of the NW ¼ of the NE ¼ of said Section 12, a distance of 33' to the S right of way line of Capital Avenue; thence continuing S 00° 03' 30" E, a distance of 237'; thence S 89° 20' 09" E, a distance of 248'; thence N 89° 20' 09" W along a line parallel to the N line of the NW ¼ of the NE ¼ of said Section 12 a distance of 323' to a point on the W line of the NW ¼ of the NE ¼ of said Section 12; thence N 00° 03' 30" W along the W line of the NW ¼ of the NE ¼ of said Section 12, a distance of 537' to the S right of way line of Capital Avenue; thence continuing N 00° 03' 30" W, a distance of 33' to the point of beginning, containing 2.68 acres, more or less, all as shown on the plat marked Exhibit "A", dated 7-18-95, attached hereto and incorporated herein by reference.	\$13,895.80
City of Grand Island	Part of NE ¼, NW 1/4 of Section 12-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
City of Grand Island	Part of SE ¼ of SW ¼, Section 1-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
WBP Partnership	Part of the E ½ of the NE ¼ of Section 12-11-10 West of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Beginning at a point on the Section	\$8,382.48

ORDINANCE NO. 9351 (Cont.)

line, said point being 200; S of the NE corner of said Section 12; running thence W and parallel to the N section line of said Section 12, a distance of 418'; running thence S parallel to the E section line of said Section 12, a distance of 228'; running thence E parallel to the N section line of said Section 12, a distance of 418'; running thence N on the section line of said Section 12, a distance of 228' to the point of beginning, except for parts deeded in Deeds recorded as Document No. 83-004647 and Document No. 84-001480 in the Register of Deeds Office, Hall County, Nebraska.

TOTAL

\$732,831.98

SECTION 2. The special tax shall become delinquent as follows: One-tenth of the total amount shall become delinquent in fifty days; one-tenth in one year; one-tenth in two years; one-tenth in three years; one-tenth in four years; one-tenth in five years; one-tenth in six years; one-tenth in seven years; one-tenth in eight years; and one-tenth in nine years respectively, after the date of such levy; provided, however, the entire amount so assessed and levied against any lot, tract or parcel of land may be paid within fifty days from the date of this levy without interest, and the lien of special tax thereby satisfied and released. Each of said installments, except the first, shall draw interest at the rate of seven percent (7.0%) per annum from the time of such levy until they shall become delinquent. After the same become delinquent, interest at the rate of fourteen percent (14.0%) per annum shall be paid thereof, until the same is collected and paid.

SECTION 3. The treasurer of the City of Grand Island, Nebraska is hereby directed to collect the amount of said taxes herein set forth as provided by law.

SECTION 4. Such special assessments shall be paid into a fund to be designated as the "Street Improvement Fund" for Street Improvement District No. 1256.

ORDINANCE NO. 9351 (Cont.)

SECTION 5. Any provision of the Grand Island City Code, and any provision of any ordinance, or part of ordinance, in conflict herewith is hereby repealed.

SECTION 6. This ordinance shall be in force and take effect from and after its passage and publication within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: December 20, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk