

★ **Roll Call Number**

Agenda Item Number

41

Date December 23, 2013

An Ordinance entitled, "AN ORDINANCE establishing the Beaverdale Self-Supported Municipal Improvement District pursuant to the provisions of Chapter 386, Code of Iowa, and providing for the establishment of a capital improvement and operation fund and the levy of an annual tax in connection therewith",

which was considered and voted upon under Roll Call No. 13- 1920 of December 9, 2013; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

Six affirmative votes required for passage, Iowa Code Section 386.3(7).

(Second of three required readings)


COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
Voss				
MOORE				
TOTAL				
MOTION CARRIED		APPROVED		
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: December 9, 2013
	Agenda Item No. 42 Roll Call No. [13-1920] Communication No. 13-595 Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

First reading of the ordinance to establish the Beaverdale Self-Supported Municipal Improvement District (SSMID).

SYNOPSIS:

Staff has prepared an ordinance to establish the Beaverdale SSMID as described in the petition. Staff recommends approval of the ordinance.

FISCAL IMPACT:

Amount: It is estimated that the district will generate approximately \$12,395 of SSMID revenue annually based upon current assessed values and the starting levy rate of \$1.75 per \$1,000 of assessed value.

Funding Source: Beaverdale SSMID revenue page to be created as part of the 2014-2015 budget process.

ADDITIONAL INFORMATION:

On September 23, 2013, the City Council received, filed and referred the petition for establishment of the Beaverdale SSMID to the Plan and Zoning Commission for preparation of an evaluative report and recommendation. The Plan and Zoning Commission's evaluative report and recommendation to approve the Beaverdale SSMID were received and filed by the City Council on October 7, 2013, and the City Council set the date of public hearing for November 4, 2013. Notice of the public hearing was published in the Des Moines Register on October 25, 2013, and a copy of the notice was mailed by certified mail on October 16, 2013 to all owners of record of real property located within the proposed District as shown by the records of the Polk County Auditor.

The purpose of the Beaverdale SSMID is to undertake the operation and maintenance of streetscape improvements within the public rights-of-way of Beaver Avenue within the proposed district. These streetscape improvements consist of improved sidewalks, curbs and cross-walks, landscaping, planters, decorative lighting, utility relocation, traffic signage, and related pedestrian enhancements. The estimated maintenance costs have yet to be determined, but will be known as the final design phase is completed. The streetscape has been designed with the expectation that the maintenance costs shall not exceed the annual Beaverdale SSMID revenues.

The petition contains signatures from more than the required 25% of the owners of taxable property within the district. As of December 3, 2013, the petition has been signed by 56.3% of the owners of taxable property in the district (nine (9) of 16 owners). The signatures also represent ownership of property with an assessed value of more than the required 25% of the assessed value of all taxable property in the District. As of December 3, 2013, the signatures represent property ownership with an assessed value of 76.1% of the total assessed value for taxable property in the District (\$5.387 million of \$7.083 million).

After holding a public hearing on November 4, 2013, the City Council voted 7-0 to close the public hearing on the petition to establish the Beaverdale SSMID. The City Council directed staff to prepare an ordinance for consideration on December 9, 2013 to establish the Beaverdale SSMID. Pursuant to Iowa Code §386.3(6), at least 30 days have passed since the public hearing was held regarding establishment of the Beaverdale SSMID. Six (6) affirmative votes are required to adopt the ordinance pursuant to Iowa Code §386.3(7).

PREVIOUS COUNCIL ACTION(S):

Date: November 4, 2013

Roll Call Number: 13-1746

Action: On petition to establish the Beaverdale Self-Supported Municipal Improvement District, SSMID. (Council Communication No. 13-537) Moved by Griess to adopt. Motion carried 6-0.

Date: October 7, 2013

Roll Call Number: 13-1562

Action: On petition to establish the Beaverdale Self-Supported Municipal Improvement District, (SSMID), (11-4-13). (Council Communication No. 13-505) Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: September 23, 2013

Roll Call Number: 13-1495

Action: Receipt of petitions to establish a Beaverdale Self-Support Municipal Improvement District (SSMID). (Council Communication No. 13-494) Moved by Griess to receive, file and refer to the City Plan and Zoning Commission for petitions to establish a Beaverdale Self-Supported Municipal Improvement District. Motion carried 6-1.

BOARD/COMMISSION ACTION(S):

Board: City Plan and Zoning Commission

Date: October 3, 2013

Resolution Number: N/A

Action: Approval of the evaluative report and establishment of the proposed Beaverdale Self-Supported Municipal Improvement District (SSMID). Motion passed 13-0.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Second reading on December 23, 2013 and third reading on January 13, 2014 of the ordinance establishing the Beaverdale SSMID unless waived by the City Council (requires six (6) votes).

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.

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Prepared by: Lawrence R. McDowell, Deputy City Attorney, 400 Robert Ray Dr., Des Moines, IA
50309 515/283-4543
Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309
Taxpayer: No change
Title of Document: Ordinance No.
Grantor's Name: City of Des Moines, Iowa
Grantee's Name: City of Des Moines, Iowa
Legal Description: See pages 3 and 4, below.

ORDINANCE NO. _____

AN ORDINANCE establishing the Beaverdale Self-Supported Municipal Improvement District pursuant to the provisions of Chapter 386, Code of Iowa, and providing for the establishment of a capital improvement and operation fund and the levy of an annual tax in connection therewith.

WHEREAS, the City of Des Moines is authorized by Chapter 386, Code of Iowa (the "Act") to create a self-supported municipal improvement district in the City, to provide for the existence and operation of such district, to provide for improvements or self-liquidating improvements for such district, and to levy taxes with respect to such district, all as more specifically defined in the Act; and,

WHEREAS, a petition (the "Petition") has been filed with the City Clerk pursuant to the Act petitioning the City Council to create the Beaverdale Self-Supported Municipal Improvement District (the "Proposed District"), to establish a combined capital improvement and operation fund with respect to the Proposed District, and to levy an annual tax for such fund, all for the purpose of causing the acquisition, construction, installation, operation and maintenance within the public rights-of-way of Beaverdale Avenue and Urbandale Avenue within the Proposed District of "improvements", as defined in the Act, consisting of improved sidewalks, curbs and cross-walks, landscaping, planters, decorative lighting, utility relocation, traffic signals, and related pedestrian improvements (which improvements are herein referred to as the "Improvements"); and,

WHEREAS, the Petition is in all ways in complete compliance with the provisions of the Act; and,

WHEREAS, on September 23, 2013, by Roll Call No. 13-1495, the City Council received the Petition and referred it to the City Plan and Zoning Commission for review in accordance with the Act; and,

WHEREAS, on October 7, 2013, by Roll Call No. 13,1563, the City Council received the report of the City Plan and Zoning Commission on the merits and feasibility of the Proposed District and Improvements; and,

WHEREAS, on October 7, 2013, by said Roll Call No. 13-1562 the City Council scheduled a public hearing for November 4, 2013, at 5:00 P.M., at which it proposed to take action for the establishment of the Proposed District and authorization of the Improvements, and did direct that notice of such hearing be given in accordance with the Act; and,

WHEREAS, notice of the hearing was mailed by certified mail on October 16, 2013, to all the owners of record of real property located within the Proposed District as shown by the records of the Polk County Auditor, and a copy of the notice was published in the Des Moines Register on October 25, 2013, in satisfaction of the notice requirements of the Act; and,

WHEREAS, at the aforementioned time and place, the City Council did meet and hear all owners of property in the Proposed District and residents of the City desiring to express their views with respect to the establishment of the Proposed District and the acquisition, construction, installation, operation and maintenance of the Improvements; and,

WHEREAS, on November 4, 2013, by Resolution and Roll Call No. 13,1746, the City Council closed the public hearing on the creation of the Proposed District and the acquisition, construction, installation, operation and maintenance of the Improvements and found that the Petition, the Proposed District and Improvements satisfied the applicable requirements imposed by the Act; and,

WHEREAS, more than thirty days has now passed since the public hearing on the creation of the Proposed District was closed, and no petition has been filed with the City Clerk opposing the creation of the Proposed District.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Des Moines, Iowa:

Section 1. That in accordance with Iowa Code Chapter 386 and the recitations set out in the Preamble hereof, there is hereby established and created in the City of Des Moines, a self-supported municipal improvement district as defined in the Act, the name of which shall be the "Beaverdale Self-Supported Municipal Improvement District" (herein the "District").

Sec. 2. The District shall consist of all the property within the following described boundaries:

Beginning at a point on the North right-of-way line of Beaver Crest Drive and the West lot line of Lot 23, Block D, Maryland Park, an Official Plat; thence North along said West lot line of Lot 23, Block D, Maryland Park and also continuing North along the West lot lines of Lot 22 and Lot 21, Block D, Maryland Park to the North lot line of Lot 21, Block D, Maryland Park; thence East along the North lot line of Lot 21, Block D, Maryland Park to the point of intersection with the East lot line of Lot 8, P. J. Clancy Place Plat 2, an Official Plat; thence North along the East lot line of said Lot 8, P. J. Clancy Place Plat 2 and the Northerly extension of said East lot line of said Lot 8, P. J. Clancy Place Plat 2 to the point of intersection with the North right-of-way line of Sheridan Avenue; thence West along said North right-of-way line of Sheridan Avenue to the point of intersection with the East lot line of Lot 36, Grassmere, an Official Plat; thence North along said East lot line of Lot 36, Grassmere and also continuing North along the East lot lines of Lots 37, 38, 39, and 40, Grassmere to the point of intersection with the South lot line of Lot 29, Grassmere; thence West along said South lot line of Lot 29, Grassmere to the West lot line of Lot 29, Grassmere; thence North along said West lot line of Lot 29, Grassmere to the point of intersection with the South lot line of Lot A, Grassmere No. 2, an Official Plat; thence West along said South lot line of Lot A, Grassmere No. 2 to the West lot line of Lot A, Grassmere No. 2; thence North along said West lot line of Lot A, Grassmere No. 2 and continuing North along the Northerly extension of said West lot line of Lot A, Grassmere No. 2 to the North right-of-way line of Urbandale Avenue: thence Northwesterly along said North right-of-way line of Urbandale Avenue to its point of intersection with the West lot line of Lot 16, Grassmere; thence North along said West lot line of Lot 16, Grassmere and the Northerly extension of said West lot line of Lot 16, Grassmere to its point of intersection with the North lot line of Lot 11, Grassmere: thence East along said North lot line of Lot 11, Grassmere to its point of intersection with the North lot line of Lot 19, Garassmere; thence East along said North lot line of Lot 19, Grassmere and continuing East along the Easterly extension of said North lot line of Lot 19, Grassmere to its point of intersection with the East right-of-way line of Beaver Avenue; thence Southeasterly along said East right-of-way line of Beaver Avenue to its point of intersection with the South right-of-way line of Fagen Drive; thence Northeasterly along said South right-of-way line of Fagen Drive to its point of intersection with the East lot line of Lot 16, Fagen Park; thence South along said East lot line of Lot 16, Fagen Park to the point of intersection with the North lot line of Lot 9, Beaver Glen, an Official Plat; thence East along said North lot line of Lot 9, Beaver Glen to a point on said North lot line of Lot 9, Beaver Glen said point being 60 feet West of the East lot line of Lot 9, Beaver Glen; thence South from said point along a line 60 feet West of and parallel to the East lot line of Lot 9, Beaver Glen and continuing South along the Southerly extension of the line 60 feet West of and parallel to the East lot line of Lot 9, Beaver Glen to the point of intersection with the South right-of-way line of Urbandale

Avenue; thence Southeasterly along said South right-of-way line of Urbandale Avenue a point on the South right-of-way line of Urbandale Avenue said point being 7 feet East of the West lot line of Lot 13, Beaver Glen; thence South from said point along a line 7 feet East of and parallel to the West lot line of Lot 13, Beaver Glen to a point on said line 7 feet East of and parallel to the West lot line of Lot 13, Beaver Glen said point being 168 feet North of the South lot line of Lot 13, Beaver Glen; thence East along said line 168 feet North of and parallel to the South lot line of Lot 13, Beaver Glen to a point on said line 168 feet North of and parallel to the South lot line of Lot 13, Beaver Glen said point being 72 feet East of the West lot line of Lot 13, Beaver Glen, thence South from said point along a line 72 feet East of and parallel to the West lot line of Lot 13, Beaver Glen to the North right-of-way line of Sheridan Avenue; thence West along said North right-of-way line of Sheridan Avenue to the point of intersection with the Northerly extension of the East lot line of Lot 1, Block 16, Broadmoor, an Official Plat; thence South along said Northerly extension of the East lot line of Lot 1, Block 16, Broadmoor and continuing south along the East lot lines of Lots 1, 2, and 3, Block 16, Broadmoor to the South lot line of Lot 3, Block 16, Broadmoor; thence West along said South lot line of Lot 3, Block 16, Broadmoor to the East right-of-way line of Beaver Avenue; thence North along said East right-of-way line of Beaver Avenue to the point of intersection with the Easterly extension of the South lot line of Lot 23, Block D, Maryland Park; thence West along said Easterly extension of the South lot line of Lot 23, Block D, Maryland and continuing West along the South lot line of Lot 23, Block D, Maryland to the Point of Beginning, all now included within and forming a part of the City of Des Moines, Polk County, Iowa.

Sec. 3. It is hereby found and determined that each property within the District is zoned for commercial use and that the owners of each property within the District will directly benefit from the acquisition, construction, installation, operation and maintenance of the Improvements.

Sec. 4. The District is comprised of property that is similarly related so that the present and potential use or enjoyment of the property in the District is benefited by the condition, development, operation and maintenance of the Improvements and the owners of property in the District have a present and potential benefit from the condition, development, operation and maintenance of the Improvements.

Sec. 5. Pursuant to the provisions of the Act, there is hereby established and created a self-supported municipal improvement district capital improvement and operation fund with respect to the District to be known as the "Beaverdale Self-Supported Municipal Improvement District Capital Improvement and Operation Fund" (herein the "Capital Improvement and Operation Fund"), for which the City may certify taxes (the "Capital Improvement and Operation Tax") against the property as defined in the Act within the District (the "Property") each year, in addition to all other taxes, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2014, and continuing for fifteen (15) years thereafter. The City may renew the levy of the Capital Improvement and Operation Tax for subsequent five (5) year periods unless a

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petition containing the signatures of at least forty percent of all owners of property within the District or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the District, is filed with the City Clerk at least 6 months prior to the expiration of the current period. The City shall not renew the levy of the Capital Improvement and Operation Tax if such a petition is timely received.

Sec. 6. The City may use the proceeds of the Capital Improvement and Operation Tax for the purposes of paying (or reimbursing the City with respect thereto) all or part of the costs incurred in connection with the acquisition, construction, installation, operation and maintenance of the Improvements, any administration expenses (as defined in and authorized by the Act) of the District, including legal and engineering fees, and any other expenses reasonably incurred in fulfilling the purposes of the District, all as may be determined from time to time by the City Council.

Sec. 7. The Capital Improvement and Operation Tax to be levied annually upon the Property as aforesaid, shall not exceed the amount per thousand dollars (\$1,000) of taxable value of the Property in any one year specified by the table below, in addition to all other taxes.

<u>Fiscal Years of Levy</u>	<u>Max. levy per thousand dollars taxable value</u>
2014/15 to 2020/21	\$1.75
2021/22 and later	\$2.00

Sec. 8. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance, which shall be given effect without such invalid part or parts.

Sec. 9. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 10. The City Clerk is hereby authorized and directed to cause a certified copy of this ordinance to be recorded in the office of the Polk County Recorder, and a copy thereof to be filed with the Polk County Auditor.

FORM APPROVED:



Lawrence R. McDowell
Deputy City Attorney