



City of Grand Island

Tuesday, March 13, 2012

Council Session

Item F4

#9372 - Consideration of Amendments to Chapter 32 of the Grand Island City Code Relative to Streets and Sidewalks

Staff Contact: Terry Brown, Public Works Manager of Engineering S

Council Agenda Memo

From: Scott Griepenstroh, Project Manager

Meeting: March 13, 2012

Subject: Consideration of Amendments to Chapter 32 of the Grand Island City Code Relative to Streets and Sidewalks

Item #'s: F-4

Presenter(s): Terry Brown, Public Works Manager of Engineering Services

Background

All agreements with the Nebraska Department of Roads (NDOR) for Federal-aid Transportation projects include the following requirements for encroachments in the public Right-of-Way.

The Local Public Agency (LPA), at no cost to the project, shall clear the entire existing Right-of-Way of this project of any private or non-LPA uses or occupancy of the area above, below, or on the existing Right-of-Way. Also, the LPA agrees to keep the old and new Right-of-Way free of future encroachments, except those specifically authorized by permit.

The LPA must have all encroachments cleared from the Right-of-Way before requesting a Right-of-Way Certificate and must attest to said clearance.

NDOR provided the following specific guidance for addressing encroachments on public Right of Way on Federal-aid Transportation projects.

- A. Encroachments that are potential safety hazards (obstacle, sight distance interference) located within the clear zone **MUST** be removed immediately.
- B. Encroachments that are potential safety hazards located outside the clear zone may be decided case-by-case; work with NDOR's District office for assistance.
- C. Encroachments that are not potential safety hazards located within project lateral obstacle clearances must be moved, or considered to be abandoned, with the understanding that any damage caused by construction is not reimbursable, i.e. will not be paid for with Federal, State or Local funds (and if it remains after construction must be permitted by the local agency).

- D. Encroachments not included in any of the above categories – must be permitted (LPA governing body letter).

Through guidance from NDOR, underground lawn sprinkling systems on the public Right-of-Way are considered encroachments on Federal-aid Transportation projects. As per item C. above, underground lawn sprinkling systems can be allowed to remain in public Right-of-Way by permit or license agreement. However, Local funds can be used to pay for damage caused by construction.

The City of Grand Island currently has the following projects that receive Federal-aid Transportation Funds.

- Walk to Walnut (Safe Routes to Schools)
- State Street and Capital Avenue Connector Trail (Transportation Enhancement)
- Third and Wheeler Historical Lighting (Transportation Enhancement)
- US-30 Drainage Improvement (Surface Transportation Program)
- Various Locations in Grand Island – Resurfacing (Surface Transportation Program)
- Capital Avenue – Webb Road to Broadwell Avenue (Surface Transportation Program)

Discussion

In order to comply with the encroachment requirements specified in the agreements for the above-mentioned projects, Grand Island City Code is being revised to specifically address underground lawn sprinkling systems located in public Right-of-Way on projects that receive Federal-aid Transportation funds. This type of encroachment shall be documented through execution of a license agreement in accordance with City Code, Article VII. Occupancy of Public Right of Way.

Items that are permitted in the public Right-of-Way by license agreements are subject to the requirements of Section 32-71 Indemnification Required.

Alternatives

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the change to Chapter 32 of the City Code.

Sample Motion

Move to approve the ordinance amending Section 32-69 of the Grand Island City Code.

ORDINANCE NO. 9372

An ordinance to amend Chapter 32 of the Grand Island City Code; 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. Article VII. Occupancy of Public Right of Way, Section 32-69 of the Grand Island City Code is hereby amended by adding paragraphs (5) and (5)(i):

§32-69. General

(5) An owner of an underground lawn sprinkling system encroaching into public Right-of-Way on any improvement project that is to receive Federal Transportation Funds shall obtain a license agreement subject to the requirements pursuant to this article.

(i) A processing fee is not required for a license agreement for underground sprinkling systems encroaching into public Right-of-Way, so long as it is in connection with Federal Transportation Funded projects.

SECTION 2. 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: March 13, 2012

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form ☐ _____
March 9, 2012 ☐ City Attorney