



City of Grand Island

Tuesday, July 24, 2012

Council Session

Item F1

#9391 - Consideration of Amendments to Chapters 13 and 32 of the Grand Island City Code Relative to Downtown BID Encroachments

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Scott Griepenstroh, Project Manager

Meeting: July 24, 2012

Subject: Consideration of Amendments to Chapters 13 and 32 of the Grand Island City Code

Item #'s: F-1

Presenter(s): John Collins, Public Works Director

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).

The Third and Wheeler Historical Lighting receives Federal aid through the Transportation Enhancement Program. The Grand Island Downtown has several encroachments that must be addressed before the Nebraska Department of Roads will approve final design plans and specifications.

Discussion

The Downtown Business Improvement District provided for and maintains concrete planters, bike racks, trash receptacles, sidewalk grates for trees and benches. These items typically are placed on the public sidewalk and are therefore encroachments in the public right-of-way.

This ordinance will allow these items to remain in the public right-of-way at the discretion of the City of Grand Island and the Public Works Director.

There are several buildings in the Downtown Business Improvement District that were constructed with vaults, or cavities, that extend under the public sidewalk. The purpose of these vaults includes providing for entrances to basements or additional storage space. Locations of underground vaults were identified in 1972 by Public Works staff as part of Downtown Sidewalk District improvements.

This ordinance allows these underground vaults to remain in the public right-of-way. In the event the vaults become structurally unsound, the property owner is responsible for structural upgrades or removal.

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

Public Works Administration recommends that the Council approve changes to Chapters 13 and 32 of the City Code.

Sample Motion

Move to approve the ordinance amending Sections 13-92 and 32-69 and of the Grand Island City Code.

ORDINANCE NO. 9391

An ordinance to amend Chapters 13 and 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 XII. Business Improvement District No. 8, Section 13-92 of the Grand Island City Code is hereby amended by adding paragraphs (D) and (D)(i):

§13-92. Purpose

(D) Improvements Encroaching Public Right-of-Way: Physical improvements as described in this section that occupy public right-of-way are maintained solely at the sufferance of the City. The City reserves the right and power to require the removal of any such improvement at its sole discretion.

(i) The Public Works Director shall have the authority to order items removed from the public right of way that compromise the use, construction or maintenance of the public sidewalk, alley or street.

SECTION 2. Article VII. Occupancy of Public Right of Way, Section 32-69 of the Grand Island City Code is hereby amended by adding paragraph (6):

§32-69. General

(6) Underground vault space under public sidewalk on buildings constructed prior to 1972 in the Downtown Improvement Parking District, as defined in Section 13-1 of the Grand Island City Code, are maintained solely at the sufferance of the City. The City reserves the authority to require structural upgrades or removal if in the interest of public safety.

SECTION 3. 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.

Approved as to Form	☐ _____
July 23, 2012	☐ City Attorney

ORDINANCE NO. 9391 (Cont.)

Enacted: July 24, 2012

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk