

City of Scottsbluff, Nebraska

Monday, May 5, 2014

Regular Meeting

Item Resolut.1

Council to consider an Ordinance and permitting process to allow businesses to utilize a portion of the City's right-of-way for outdoor seating, dining, and display areas.

Staff Contact: Annie Folck, City Planner

Agenda Statement

Item No.

For meeting of: May 5, 2014

AGENDA TITLE: Council to consider an ordinance and permitting process to allow businesses to utilize a portion of the City's right-of-way for outdoor seating, dining, and display areas

SUBMITTED BY DEPARTMENT/ORGANIZATION: Planning and Zoning

PRESENTATION BY:

SUMMARY EXPLANATION: Downtown business owners have approached the City to inquire if it would be possible for them to place seating or dining areas outside of their businesses on the sidewalk. Currently, this is prohibited by code. Annie Folck has been working with the Business Improvement District Board and Legal to make some code changes. This would put into place a permitting system for anyone who wants to utilize the public right-of-way in such a manner. Business owners would have to apply for a permit annually and follow the attached rules and regulations. The permit fee is \$50. All obstructions must be removable under these requirements. If a business owner wishes to install anything permanent, in addition to the Right-of-way- permit, they must sign a license agreement with the City and meet all applicable requirements.

BOARD/COMMISSION RECOMMENDATION: BID board unanimously recommended that Council adopt this code change and the related rules and requirements.

STAFF RECOMMENDATION: Recommend approval of the ordinance and the rules and regulations

EXHIBITS

Resolution ☐ Ordinance ☒ Contract ☐ Minutes ☒ Plan/Map ☐

Other (specify) ☐ _____

NOTIFICATION LIST: Yes ☐ No ☒ Further Instructions ☐

APPROVAL FOR SUBMITTAL: _____
City Manager

Rev 3/1/99CClerk

BUSINESS IMPROVEMENT BOARD

Regular Meeting

May 1, 2014

The Scottsbluff Business Improvement Board met in a regular meeting on Thursday, May 1, 2014, at 8:00 a.m. at City Hall, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published on April 25, 2014 in the Star-Herald, a newspaper published and of general circulation in the City. The notice stated the date, hour, and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Business Improvement Board meeting should contact the Development Services Department, and that an agenda of the meeting kept continually current was available for public inspection at the Development Services Department office; provided, the Business Improvement Board could modify the agenda at the meeting if it determined that an emergency so required. A similar notice, together with a copy of the agenda, also has been delivered to each Business Improvement Board member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

Item 1: Chairperson Neal Blomenkamp presided over the proceedings. The following Business Improvement Board members were present: Roger Franklin, Rick Wayman, Beckie Rodgers, Donna Hessler, and Neal Blomenkamp. Members absent (excused): Ron Schluter, and Angela Kembel. Members absent (unexcused): None. City officials present Annie Urdiales, Planning Administrator, and Annie Folck, City Planner.

Item 2: Chairperson Blomenkamp informed interested parties, a copy of the Nebraska Open Meetings Act is posted on a bulletin board on the west wall of the conference room.

Item 3: Notice of changes in the agenda: Appoint Roger Franklin as Vice Chairman.

Item 4: Citizens with items not scheduled on regular agenda: None.

Item 5: Approve Minutes of March 26, 2014, Moved by Franklin, and seconded by Rodgers, "That the Board approve the minutes of March 26, 2014. "YEAS: Rodgers, Franklin, Wayman, and Blomenkamp "NAYS": None. ABSTAIN: Hessler. ABSENT: Schluter, & Kembel. Motion Carried.

Item 6A: Review work logs for third & last quarter of 2013 and first quarter of 2014. Moved by Rodgers & seconded by Franklin to approve the Quarterly work logs. "YEAS: Rodgers, Franklin, Wayman, and Blomenkamp "NAYS": None. ABSTAIN: Hessler. ABSENT: Schluter, & Kembel. Motion Carried.

Item 6B: Proposed Ordinance text change for Right of Way Obstructions. Annie Folck went over the changes to the Ordinance allowing for obstructions in the Right of Way. The City Attorneys recommended that we leave sign flippers off and we can come back and address it if it becomes an issue. Changes were made to Rules and Regulations 4. Sidewalk Cafes #2 language was changes to allow for fixtures in the right of way to be removable and will not have to be removed every night. Also under item (G) licenses can be issued for more permanent fixtures. The cost for this permit fee & license is \$50.00. Area will be checked to make sure anything in the right of way is not impeding walkable traffic. These were the only changes.

Conclusion: A motion was made by Wayman and seconded by Rodgers to approve the changes to the ordinance of General Provisions of Right of Way Obstructions and make positive recommendation to City Council. "YEAS: Rodgers, Franklin, Wayman, Hessler, and Blomenkamp "NAYS": None. ABSTAIN: None. ABSENT: Schluter, & Kembel. Motion Carried.

Unfinished Business: Annie Folck, City Planner, gave an update on progress of the Downtown Revitalization Program. The Board asked about the 18th Street closing. They are aware of some of the comments made against this and would like to recommend that the City continues discussion on this topic as they feel this will be a good location for a town square.

Conclusion: A motion was made that The Business Improvement District Board supports and asks City Council to continue to research and discuss the closure of 18th Street to allow for downtown functions and gatherings. "YEAS: Rodgers, Franklin, Wayman, and Blomenkamp
"NAYS": None. ABSTAIN: Hessler. ABSENT: Schluter, & Kembel. Motion Carried Unanimously.

Unfinished Business: None.

Having no further business the Board of Adjustment with a motion by Franklin and second by Wayman adjourned at 8:45 a.m.

BUSINESS IMPROVEMENT BOARD

Regular Meeting

March 26, 2014

The Scottsbluff Business Improvement Board met in a regular meeting on Wednesday, March 26, 2014, at 8:00 a.m. at City Hall, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published on March 21, 2014 in the Star-Herald, a newspaper published and of general circulation in the City. The notice stated the date, hour, and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Business Improvement Board meeting should contact the Development Services Department, and that an agenda of the meeting kept continually current was available for public inspection at the Development Services Department office; provided, the Business Improvement Board could modify the agenda at the meeting if it determined that an emergency so required. A similar notice, together with a copy of the agenda, also has been delivered to each Business Improvement Board member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

Item 1: Chairperson Neal Blomenkamp presided over the proceedings. The following Business Improvement Board members were present: Roger Franklin, Rick Wayman, Beckie Rodgers, and Neal Blomenkamp. Members absent (excused): Donna Hessler, Ron Schluter, and Angela Kembel. Members absent (unexcused): None. City officials present Annie Urdiales, Planning Administrator, and Annie Folck, City Planner.

Item 2: Chairperson Blomenkamp informed interested parties, a copy of the Nebraska Open Meetings Act is posted on a bulletin board on the west wall of the conference room.

Item 3: Notice of changes in the agenda: None

Item 4: Citizens with items not scheduled on regular agenda: None.

Item 5: Moved by Franklin, and seconded by Rodgers, "That the Board approve the minutes of February 5, 2014. "YEAS: Rodgers, Franklin, Wayman, and Blomenkamp "NAYS": None. ABSTAIN: None. ABSENT: Schluter, Hessler, & Kembel. Motion Carried.

Item 6A: Proposed Ordinance text change for Right of Way Obstructions.

NOTE: Ron Schluter arrived to the meeting at 8:15 a.m.

Annie Folck, City Planner, addressed the Business Improvement District Board regarding proposed text changes to the City's requirements regarding obstructions in City right of way areas. Codes included:

20-601. Use of Right of Way; permission required: Obstructing; prohibited; nuisance.

20-6-15. Other objects, materials.

22-6-1. Diagonal parking: where; marking.

6-6-35. Use of right of way of sidewalks for carnivals, bazaars, or the sale of merchandise.

22-2-66. Four-lane streets; designated; marking.

22-2-58. Near schools; limit.

The ordinance will also add Rules and Regulations for Applications and Permits for the use of the Right of Way within the City.

The BID board asked about Sign Flipping and if we had language in our code for this type of advertising. Currently we do not have anything in our sign code addressing sign flipping in the

right of way. Annie F. will check with staff and legal regarding the possibility of adding language with requirements.

The Board also discussed the language regarding sidewalk cafes and asked to change the language to allow them to leave their tables, bollards, etc. out overnight; language could be changed from must be removed at the close of each operating business day to must be removable. Discussion was had regarding permanent fixtures such as railings, table, & chairs, different requirements are needed if a café is serving alcohol or not. With the different requirements needed for the permanent fixtures they would have to be approved through the Development Services permitting process. We could put together a process to allow for more permanent fixtures to be installed, with license agreements and other necessary requirements. The Board is also worried that there may not be enough room left in Right of Way with proposed landscaping in the existing right of way area. The Board wants to make sure the ordinance works with the proposed changes of the Downtown Redevelopment Phase II. We informed the BID Board that the Consultants for the Downtown plan will be presenting at the Council meeting on Monday, March 31st and they can attend the meeting if interested in proposed changes. Fees for the permits allowing for the obstruction of the sidewalk area will be yearly.

Other Discussion: The Board also asked if signs could possibly be posted to prevent jaywalking on Broadway, or if speed control bumps would be part of the downtown plan. Other worries snow removal, where do business owners place their snow, & empty businesses never get scooped.

Unfinished Business: None.

Having no further business the Board of Adjustment with a motion by Franklin and second by Wayman adjourned at 9:10 a.m.

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF AMENDING THE MUNICIPAL CODE AT CHAPTER 20, ARTICLE 6, RELATING TO THE USE OF RIGHT-OF-WAY OF THE CITY AND REQUIRING PERMITS FOR USE OF CITY RIGHT-OF-WAY AND FEES, AMENDING CHAPTER 22, ARTICLE 6, RELATING TO PARKING AND TRAFFIC, REPEALING PRIOR PROVISIONS OF THE MUNICIPAL CODE, AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Section 20-6-1 of the Scottsbluff Municipal Code is amended to provide as follows:

“20-6-1. Use of Right-of-Way; permission required; Obstructing; prohibited; nuisance.

It shall be unlawful for any person, firm or corporation to use city right-of-way, or to place in or upon any right-of-way, street, alley, sidewalk or municipal parking lot of the city any substance or thing obstructing or encroaching upon such right-of-way, street, alley or sidewalk, or to obstruct the same in any manner whatsoever, without first obtaining permission to do so. An application for such permit, along with any fee required under this Code, shall be delivered to the Planning and Development Department. A Planning and Development Official will review the application as well as the rules and regulations governing the use of any right-of-way, street, alley, sidewalk or municipal parking lot and, if it appears to the Planning and Development Official that the proposed use complies with all rules and regulations, and that the public safety, convenience and welfare will not be adversely affected, the Planning and Development Official will issue a permit to the applicant. The permit shall be valid for one calendar year, beginning on January 1st of each year and expiring on December 31st of each year. Any permit issued by the Planning and Development Official shall be subject to the condition that the permit may be revoked at any time the Official finds that public safety, convenience and welfare would be enhanced by the revocation of such permit. If the Planning and development Official grants the application, the applicant shall be given a written permit signed by the Planning and Development Official. Such permit shall state in writing that it may be revoked at any time the Planning and Development Official finds that public safety, convenience and welfare will be enhanced by the revocation of the permit. If the Official has imposed conditions on the granting of the permit, such conditions shall be specified in the permit. Any use of the city right-of-way or any obstruction or encroachment upon any street, alley, sidewalk or municipal parking lot in the City without having obtained a permit as provided in this section or as otherwise provided in this Chapter shall be deemed a nuisance.”

Section 2. Section 20-6-15 of the Scottsbluff Municipal Code is amended to provide as follows:

“20-6-15. Other objects, materials.

No person, firm or corporation shall place or maintain or, having placed or maintained, shall suffer to remain, on the right-of-way of any public street, or in any alley, any vehicle, machinery, equipment or structure, or any part thereof, or any material, except pursuant to a permit issued by a Planning and Development Official. Provided, this section shall not apply:

- (1) to properly licensed motor vehicles operated or temporarily parked on the traveled part of the street adjacent to the curb or, if there be no curb, adjacent to the side of the street, or operated or temporarily parked in an alley, or to trailers while attached to such a motor vehicle, or
- (2) to improvements permitted under Article 4 of this Chapter.”

Section 3. Section 22-6-1 of the Scottsbluff Municipal Code is amended to provide as follows:

“22-6-1. Diagonal parking; where; marking.

The parking areas on the following parts of streets shall be marked as diagonal parking at an angle of thirty (30°) degrees with the curb so that the right front wheel of the vehicle parked therein shall be next to the curb:

- (1) On Broadway Avenue between 15th Street and 20th Street.
 - (2) On the east side of Fourth Avenue between 19th Street and 20th Street.
- Such parking places shall be marked with white lines.”

Section 4. Section 25-6-25 of the Scottsbluff Municipal Code is amended to provide as follows:
“25-6-25. Placards; signs; bills; posting; printing; painting; prohibited.
It is hereby declared unlawful for any person, firm or corporation to post, print, paint, or in any other manner place upon any sidewalk, crossing or crosswalk or other way or passage for the use of pedestrians or upon any pavement in any street or alley in the City any placard, sign, advertisement, display bill, letter or kindred matter of any kind or description, unless permitted by a Planning and Development Official pursuant to section 20-6-1 of this Code.”

Section 5. Section 6-6-35 of the Scottsbluff Municipal Code is amended to provide as follows:
“6-6-35. Use of right-of-way of sidewalks, streets for carnivals, bazaars, or the sale of merchandise.
When applying for a permit to use the right-of-way for sidewalks or streets for the sale of merchandise, or for any activity allowed by this code, including those activities described in section 20-6-52, the applicant must pay the following fee:

Right-of-way permit to use sidewalks.	50.00
Permit to operate one of the activities described in Section 20-6-52	25.00
Sale of merchandise on public right-of-way	25.00"

Section 6. Section 22-2-66 of the Scottsbluff Municipal Code is amended to provide as follows:
“22-2-66. Four-lane streets; designated; marking.
The following parts of streets are hereby made and declared to be four-lane streets, and shall have two (2) contiguous lanes for traffic moving in each direction:
 (1) Broadway Avenue, except between West Overland Drive and 20th Street,
 (2) Avenue B, between South Beltline Highway and 8th Street, and between 27th Street and 42nd Street,
 (3) South Beltline Highway, between 1st Avenue and Avenue I,
 (4) East Overland Drive,
 (5) 27th Street, between Avenue I and 5th Avenue,
 (6) Avenue I between West Overland and the South Beltline Highway,
 (7) Avenue I between West 27th Street and U.S. Highway 26, and
 (8) 21st Avenue between U.S. Highway No. 26 and East Overland.
A double yellow line shall be painted along approximately the center of each such part of a street, except where there are traffic islands. A white line shall be painted between the contiguous lanes for traffic moving in the same direction.”

Section 7. Section 22-2-58 of the Scottsbluff Municipal Code is amended to provide as follows:
“22-2-58. Near schools; limit.
It shall be unlawful for the driver of any vehicle, when passing premises on which elementary or middle school buildings are located and which are used for school purposes, during school recess or while children are going to and from school during opening or closing hours, to drive the vehicle past the premises at a rate of speed in excess of fifteen (15) miles per hour.”

Section 8. All Ordinances and parts of Ordinances passed and approved prior to passage, approval and publication of this Ordinance in conflict herewith are now repealed.

Section 9. This Ordinance shall become effective upon its passage and approval.

PASSED AND APPROVED this ____ day of May, 2014.

Mayor

ATTEST:

City Clerk (Seal)