

**CITY OF HASTINGS, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
Monday, August 9, 2021**

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Hastings, Nebraska was conducted at the Hastings Public Library, 314 N. Denver Avenue, on August 9, 2021.

The meeting was called to order at 5:30 p.m. in Regular Session by Mayor Stutte with the following members present: Jeniffer Beahm, Ginny Skutnik, Butch Eley, Joy Huffaker, Chuck Rosenberg, Shawn Hartmann, Matt Fong. Absent: Ted Schroeder.

The following City Officials were present: City Administrator, David Ptak; City Attorney, Clint Schukei; City Clerk, Kimberly Jacobitz; Police Chief, Adam Story; Fire Chief, Brad Starling; Finance Director, Roger Nash; Utility Manager, Kevin Johnson; Information Technology Director, Erik Nielsen; Development Services Director, Lisa Parnell-Rowe; Director of Engineering, Lee Vrooman; Museum Director, Teresa Kreutzer-Hodson; Library Director, Amy Hafer.

The Mayor led the group in recital of the Pledge of Allegiance to the United States of America.

Moved by Ginny Skutnik seconded by Jeniffer Beahm to postpone Item 3(c) Public Hearing and Ordinance No. 4674 until after the September Council Worksession, and adopt current agenda for August 9, 2021. Regular Meeting. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

PUBLIC NOTICE - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, August 6, 2021. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is located at the back of the Council Chambers. Also, a current copy of the Nebraska Open Meetings Act is posted on the south wall of the Council Chambers which is accessible to members of the public.

COUNCIL COMMUNICATION:

Councilmember Rosenberg reported on the Firefighter pension meeting held today. The pension plan is currently with Principal, but they are looking at Oakeson-Steiner.

CITIZEN COMMUNICATIONS:

None.

MAYOR'S COMMUNICATIONS:

Mayor Stutte recognized service anniversaries for Mike Hernandez, Auditorium, 5 years and Michael Peters, Utility, 25 years.

CONSENT AGENDA:

1. All Consent Items.

Moved by Ginny Skutnik seconded by Matt Fong to approve all consent items, as presented.

Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

(a) Approval of the minutes of the Council Meeting of July 26, 2021

(b) Approval of the minutes of the Worksession of July 19, 2021

(c) Approval of claims and payroll except the claim of Eldon's Automotive Repair

(d) Approve receiving and placing on file department monthly reports

(e) Approval of the renewal of Liquor License Applications for the following **Class "C" Liquor Licenses** for the period of November 1, 2021 through October 31, 2022: 201 N. Lincoln Enterprises, LLC, 2nd Street Slammer, Inc., Adams County Ag. Society, Art Bar, LLC, B & R Stores, Inc. (2), Barrel Bar, Inc., Blue Fork Kitchen, LLC, Brique 1887, LLC, Budson, Inc., Bullseye's, Inc., Caribbean Bar & Grill, LLC, Disabled American Veterans, Eagles FO Hastings Aerie 592, Gabriel Sanchez, George J. Beckby, Halftime Lounge, LLC, Hallett, Inc., Hastings Lodging 2, LLC, Highland Operating Company, Kitty's Roadhouse, LLC, Miscues, LLC, Murphy's Wagon Wheel, Inc.,

Nebraska Softball Association, No Coast Brewing, LLC, Odyssey Hastings, LLC, Rivals Bar & Grill, LLC, RM Retail Services, LLC, Roadhouse Catering, LLC, Steeple Brewing Company, LLC, The Wandering Well, LLC, Virginia Wolz, Wanda's, LLC. **Catering Licenses** for the period of November 1, 2021 through October 31, 2022: 201 N. Enterprises, LLC, 2nd Street Slammer Inc., Adams County Ag. Society, Art Bar, LLC, Blue Fork Kitchen, LLC, Bullseye's Inc., Eagles FO Hastings Aerie 592, No Coast Brewing, LLC, Kitty's Roadhouse, LLC, Miscues, LLC, Murphy's Wagon Wheel, Inc., RM Retail Services, LLC, Steeple Brewing Company, LLC, The Wandering Well, LLC

(f) Approval of the request of Hastings Public Schools to utilize city streets for the Hit the Ground Running event on September 2, 2021

REGULAR AGENDA:

2. Unfinished Business of Preceding Meeting.

None.

3. Public Hearings.

(a) Public hearing on the request of Joseph and Nikayla Kindig for an amendment to a Conditional Use Permit to allow construction of a new barn for use with the existing Conditional Use Permit and to consider the additional use of neighborhood assembly for other special events throughout the year for property commonly addressed as 780 East 26th Street, Hastings, Nebraska. Lisa Parnell-Rowe reported on the Conditional Use Permit (CUP) amendment. This largely has to do with the barn at the Pine Patch Tree Farm. The property is now owned by Joseph and Nikayla Kindig. It was originally a CUP, in 2004. There was one condition placed upon the CUP at that time, which stated if there are changes in uses or structures not anticipated in this application, we will require a revision to the CUP. The applicants want to rebuild the barn, which would be in the same footprint as the existing barn. It would be expanded to be a little larger. Currently the CUP is for nursery use. The nursery use is for land, facilities for growing trees and plants, and retail or wholesale distribution on the premises. When the Kindig's purchased the land, the CUP went with it, but did not mention they would be using the barn as part of that use. We are including the barn in this CUP. They have already started using the barn for that purpose, storing trees, wreaths, and retail. They want to expand that use to include Santa and Mrs. Claus for the total experience of Christmas shopping. Another aspect to this is they would like the opportunity to use the barn for assemblies on a periodic basis. We are not changing the zoning, it is a conditional use permit. The barn is 75 feet from another structure. Our buffer requirements are only 30 feet. Occupancy is limited to no more than 99 people. Neighborhood assembly is described as less than 350 people. There are multiple businesses in the area. The Planning Commission meeting in June documented comments, then staff went onsite with the applicant to see if they could make this work in this area. The Planning Commission went on a tour of the Pine Patch at one of their meetings. Lisa described the conditions on Resolution 2021-31, which included no alcohol permitted. Parking requirements have been met. There are speakers on the barn, which will produce noise. Speakers will only be used during the Christmas tree experience. There is a First Right of Refusal for Dave Glass's property, which is in the far northwest corner of the lot. They will replat to make that the primary structure, so that it remains a residential, R-1 use, so in the future it will be conforming. Lisa stated that other businesses do not have CUP's to operate business in the area. Our Home Occupation Code talks of no retail.

Speakers For: Jo Kindig, 200 East 7th Street; Dan Pauley, 409 South 17th St, Omaha; Dave Glass, 2520 North Elm Avenue; John Northrup, 2430 North Elm Avenue

Speakers Against: Roger Duehring, 880 East 26th Street; Connie Keene, 815 East 26th Street

City Clerk received a letter of objection, which included seven signatures. City Clerk received two letters of support.

Moved by Chuck Rosenberg seconded by Ginny Skutnik to approve Resolution No. 2021-31, a Conditional Use Permit (CUP) Amendment for Pine Patch Tree Farm to allow for the construction of a new barn for use with existing CUP and the added use of neighborhood assembly for other special events throughout the year for property commonly addressed as 780 E 26th Street, City of Hastings, Adams County, Nebraska, with the following conditions:

1. Conditions of the CUP approved on September 12, 2005.

2. The existing private easement granted by John M. and Michele L. Northrup must be updated, tied to the land and the Kindigs, and indicate its authorized usage only for the Christmas tree portion of the Kindig business. The easement shall provide that except for the Christmas business season this access is to be gated and locked with a sign on the fence clearly indicating that the use of this egress is only for the Christmas Tree business season. This easement shall be filed with the register of deeds and a copy provided to the Development Services office to be filed with this CUP Amendment.

3. Pedestrians may be walking across the driveways as they are viewing and selecting trees. Applicant must place signage in the necessary areas of incoming and outgoing traffic cautioning drivers that pedestrians may be in the area walking.
4. Alcohol is prohibited for the neighborhood assembly uses. A CUP amendment shall be required if alcohol is added, or if music is added (to events other than the Christmas Tree business events) or there is an expansion in the hours or dates of operation.
5. The driveway providing access to 26th street shall be widened from 13 feet to 23 feet in the fall of 2021, as required by Hastings City Code.
6. Appropriate turn-around, as required by the International Fire Code Appendix D and as depicted in the site plans on file in the Department Services office must be incorporated into the site.
7. Parking must be incorporated per the parking plan and appropriate curb stops and signage of required ADA parking must be installed on this site.
8. Owners must add additional crushed rock in areas where it is needed on a yearly basis on both the ingress and egress driveways, and the turnaround and parking areas on this site.
9. Barn must meet principal structure setback requirements as it will not initially be considered an accessory structure.
10. If the owners purchase residential property adjacent to the property that is covered by this CUP then the owners shall comply with all requirements found in City Code Section 34-311. The owners shall also be required to replat the property which is the subject of this CUP with the residential property to meet the City Code requirement that an accessory structure must have a primary or principal structure on the same lot.
11. The hours of operation shall be from 8:00 a.m. to 6:30 p.m.
12. The date of the Christmas tree sales operation shall be from November 1 through December 24, using easement as egress only. All other activities can be conducted year-round, but shall only enter and exit the property off of 26th Street.
13. There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.
14. This resolution shall be filed with the registrar of deeds so as to provide notice to any person examining the real estate records of the existence of this CUP. The recording costs incurred to comply with this section shall be paid by the applicant for the CUP.

A letter from Councilmember Schroeder in support of the Pine Patch Tree Farm was read into the record. Councilmember Rosenberg stated he spent many years on the Planning and Zoning Commission and does not recall anytime City Council turned down a recommendation that was made to the council. City Council should stand behind the recommendation. Councilmember Skutnik stated events were held along Elm Avenue when Hastings College held events, without complaints. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

(b) Public hearing on the request of Terrick L.L.C. for an amendment to a Conditional Use Permit for an extended stay area in a recreational vehicle park for property commonly addressed 302 East 26th Street, Hastings, Nebraska. Lisa Parnell-Rowe reported this is a Conditional Use Permit (CUP) amendment for Terrick, LLC, current campground owners. Before they took ownership, there were many owners of the campground. The CUP originated in 1994 and goes with the land. It was a surprise to the current owners about the CUP. We now make it a condition on the CUP to file CUP's with the Adams County Deed's office. Shortly after the CUP, this was rezoned to C-3. This is forecast for future use as suburban residential. There were eleven conditions made as part of this. Condition number eleven, with original CUP states, "That if for some reason that the campground does not go, that it be written in the Land Agreement that this can be nothing else besides an RV campground". They have cleaned up four out of five of the original conditions requested by Lisa and the previous Building Inspector. The only item left to clean up is number ten, "That camping bays shall not exceed a duration of two weeks". Lisa discussed situations of uses and where we hinge the length of stay. We had written in for economic development needs, we would allow that as an exception for a longer stay. There was confusion, so we took that out. In the building code, it gives 180 consecutive days or less as a threshold. Campers must leave for 72 hours or more after 180 days. Very few campgrounds in the State of Nebraska are privately owned. They worked with the applicant, keeping the original intent of the original CUP. Conditions are listed on the resolution. Letters were sent and no responses were received. The Planning and Zoning Commission recommended approval. Speakers Against: Jason Priest, Campground; Richard Thompson, 404 Campbell (Terrick, LLC); Jessie Green, Campground. No speakers in support or either way. Clerk received no objections.

Moved by Chuck Rosenberg seconded by Matt Fong to approve Resolution No. 2021-39 approving the CUP Amendment for an extended stay area in Recreational Vehicle Park located in the C-3, Commercial Business district for property addressed 302 East 26th Street, Hastings, Nebraska, with the following conditions:

1. Conditions of the CUP approved on April 11, 1994 with the exception of condition 10 thereof.
2. Condition 10 of the April 11, 1994 CUP is amended to provide as follows:
 - a. There will be 12 camp spots that will be allowed to be occupied for up to a 180-day maximum stay. These areas are to be located in the far northwest corner of the western side of the campground and will not be allowed to be scattered among this side of the campground, but must instead be located in the first 12 areas in this row (numbered, 33-44 on the Site Plan). The remaining parking areas in this campground will continue to remain at two-week or less stays. There will be one exception allowable for exceeding the 180-day maximum. This exception is to allow for one campground employee so long as this person is employed by the owner to maintain and/or manage the campgrounds. Proof of employment with a copy of a W-2 or paystub must be provided as proof of employment.
 - b. The 12 areas allowing stays for up to a 180-day maximum shall be clearly and neatly marked with a small durable sign that indicates these are for extended stays not exceeding 6 months. The Building Inspector must approve these signs with sign permit to document their approval.
 - c. Owners will update Site Plan to clearly mark spots on their maps as two-weeks or less and extended stay (not exceeding 180-days). This will be resubmitted to the Director of Development Services for approval. All obsolete maps are to no longer be distributed and discarded once this CUP amendment is approved.
 - d. Extended-stay campers must pack everything up and leave for at least 72 hours (3 days) before returning if they stay longer than 180-days and this would only be allowable with documentation in a log or on a use agreement for these parties that both the owner and the camper sign.
 - e. The owner must create and submit to the Director of Development Services for approval a new user agreement that will include the following:
 - i. An area to log camper name, area #, date, time and initials of individuals checking in and checking out.
 - ii. Including conditions regarding propane tanks allowable as stipulated in this CUP for less than two weeks and up to 180-days.
 - iii. Includes skirting limitations as stipulated in this CUP.
 - iv. Clearly note which type of camping the camper is allowed to do. You can list 2 weeks or less and up to 180-days for each camper.
 - f. All short-term (two-week or less campers) shall be permitted to have up to two 40-pound cylinders, provided they are mounted on and attached to the camper, RV, etc. by approved means in NFPA 58. Campers staying longer (up to 180-days) will be allowed no more than one cylinder not greater than 120 pounds, provided they are placed on a 3X3 concrete pad that will be provided for these 12 parking areas. Building and Fire inspectors will determine the appropriate placement of these pads on each space and must give final approval to the finished pads.
 - g. The Fire Department will provide a handout to the owner for cylinder installation that will be provided to campers when signing user agreements. This handout will instruct each camper on appropriate Propane Tank mounting and capacity requirements.
 - h. Applicants will be responsible for ensuring any electrical rewiring and/or other longer-term infrastructure are upgraded in the first 12 dedicated areas for extended stays not lasting longer than 180-days in duration.
 - i. Skirting for extended stay guests will be limited to the winter months of December, January, February and March.
3. There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.
4. This resolution shall be filed with the registrar of deeds so as to provide notice to any person examining the real estate records of the existence of this CUP. The recording costs incurred to comply with this section shall be paid by the applicant for the CUP.

Moved by Butch Eley seconded by Joy Huffaker to table Resolution No. 2021-39 approving the CUP Amendment for an extended stay area in Recreational Vehicle Park located in the C-3, Commercial Business district for property addressed 302 East 26th Street, Hastings, Nebraska. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

(c) Public hearing on the request of the City of Hastings Development Services Department to amend City Code Sections 34-103, 34-200, 34-403 and 34-404 to add language for a Temporary Use Permit and amend Uses and Districts Table to include restaurants, mobile vendors, temporary structures, recreational and temporary recreational vehicles.

Ordinance No. 4674 amending City Code Sections 34-103, 34-200, 34-403 and 34-404 to provide for a Temporary Use Permit and to alter the Uses and Districts Table.

This item 3(c) was postponed upon adopting the agenda.

4. General Business.

(a) Moved by Ginny Skutnik seconded by Butch Eley to approve the claim of Eldon's Automotive Repair in the amount of \$374.07. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Abstain: Joy Huffaker. Absent: Ted Schroeder. The motion carried. Councilmember Huffaker abstained because of Conflict of Interest.

(b) Presentation of 2021-2022 Annual City Budget including Utility Budget

Dave Ptak presented the City portion of the preliminary budget. We will not receive final assessed evaluation numbers from the Adams County Assessor's Office until at least August 15th. The 2021 estimated assessed valuation is \$1,591,222,046 (up 3.35%).

Dave reported on the following highlights:

* Consolidation and Reorganization continue to be addressed * New HDQP/HSA Health Insurance Plan enrollment offered in FY2020-21 was very successful in addition to current PPO Plan * Comprehensive Plan/Zoning Code Rewrite for Development Services * Fire Equipment Sinking Fund continued * ½ Cent Sales Tax impact on Streets, Parks and Museum Projects * Personnel Costs Generally Shared @ 45%-55% between Utility and City Budgets * Comparability Results/Personnel Costs – 3.0% wage adjustment * IT Department enhancement – personnel and equipment * Minor Changes to Fee Resolution * ERP implementation continues with help from 3rd Party Consultant * 42nd Street Construction west to Baltimore Avenue completed * Budgeting for 16th Street Viaduct and City Hall Renovation * Budget is Balanced and Meets all State-Mandated Requirements.

Dave spoke on property tax distribution for both the Adams Central and Hastings High Public School Districts. There are basically three funds tied to the property tax: General, Museum, and Debt Service. All the other funds we have in the city are grant funds or received from other sources, and are not property tax dependent. Dave gave a comparison of 2020 property valuations from Columbus, Fremont, Grand Island, Kearney, Norfolk, North Platte, and Papillion. We will breakdown the budget and discuss at next Monday night's Worksession.

Kevin Johnson presented the Utility Department portion of the budget. The budget assumptions are similar to last year. He spoke to the following highlights:

* Forecasting that Revenue Growth (non-rate) from Development at 1 percent * Expense inflation at 3 percent * Rate Stabilization Funds Utilized and Planned is at 0 * Financial Target (Unencumbered cash & Rate Stabilization Funds as % of Operating Expense) is >50% * Capital Execution rate target is 70-80 percent * No increase in staffing headcount (FTEs) * Projected Utility Rate Increases: Electric 1%, Gas 3%, Water 0, Sewer 0 * Utility Fees Updated (Annual Review-have not been reviewed for many years) Cost of Service Study was completed on electric and gas rates. We are not projecting any water or sewer increases. We will review utility fees annually, as it has not been done in many years. There has been staffing movement between departments, but there is not a detailed breakdown in this presentation. Kevin discussed Critical Capital Planning greater than \$25,000. Those of interest are: Solar Farm, Substations, Heartwell Renewables (FLINT), Distribution System (Smart Meters, Conversions, Underground Additions). Critical Capital Planning for the Water Department (Main Replacement Program), Administration (Technology Fiber), Gas and Pollution Control were discussed. Kevin presented a summary of the funds themselves. We will talk in detail at the worksession on August 16th. We generate what the market needs, not what the city needs. The market needed us in February, so we made money and our cash position went up. Our capital expenditures projected for this year and next year are also high. We took the opportunity to move \$5 million from the weather event into the Rate Stabilization Fund in the Electric Fund. That gives us some buffer for future increases. Gas, Water, and Sewer are all favorable on the cash position.

(c) Moved by Ginny Skutnik seconded by Matt Fong to approve authorization for the Mayor to sign AIP No. 3-31-0040-018-2021 Snow Removal Equipment Building (SRE) Contract Documents with VRL Construction LLC dba Rathman Manning Construction of Chapman, Nebraska for the amount of \$642,548.32. Dave Ptak reported this is entirely a grant funded item. The original bids were higher than our grant, so this is value engineering to bring under

the grant funding amount. The low bidder was able to get under the grant amount. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

5. Ordinances and Resolutions.

(a) Moved by Butch Eley seconded by Jeniffer Beahm to approve Resolution No. 2021-38 approving the execution of an Agency Agreement with the Nebraska Department of Transportation (Aeronautics Division) for Project No. 3-31-0040-020-2021, The American Rescue Plan Act (ARPA). Dave Ptak reported this item is how we get the money. We must have an Agency Agreement with NDOT to get the money for the Snow Removal Equipment (SRE) building. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

6. Final Passage of Ordinances.

None.

7. Appointments.

None.

8. Miscellaneous and Other Business.

(a) Code of Conduct - Citizen Request

Alton Jackson spoke on the Code of Conduct.

Moved by Ginny Skutnik seconded by Shawn Hartmann to go into closed session for reason of litigation and personnel at 7:10 P.M. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

Moved by Ginny Skutnik seconded by Shawn Hartmann to come out of closed session at 7:43 P.M.

Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

Moved by Matt Fong seconded by Ginny Skutnik there being no further business to adjourn at 7:43 P.M.

Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: Ted Schroeder. The motion carried.

APPROVED:

Corey Stutte, Mayor

ATTEST:

Kimberly S. Jacobitz, City Clerk

(S E A L)