

CITY OF HASTINGS, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
Monday, March 14, 2022

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Hastings, Nebraska was conducted in the Council Chambers of City Hall, 220 N. Hastings Avenue, on March 14, 2022.

The meeting was called to order at 5:30 p.m. in Regular Session by Mayor Stutte with the following members present: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Absent: None.

The following City Officials were present: City Administrator, David Ptak; City Attorney, Clint Schukei; City Clerk, Kimberly Jacobitz; Police Chief, Adam Story; Police Captain, Michael Doremus; Fire Asst. Chief, Troy Vorderstrasse; Fire Marshal, Anthony Murphy; Parks & Recreation Director, Jeff Hassenstab; Finance Director, Roger Nash; Information Technology Director, Erik Nielsen; Development Services Director, Lisa Parnell-Rowe; Director of Engineering, Lee Vrooman; Director of Human Resources, Lori Hartman; Museum Director, Teresa Kreutzer-Hodson; Planner, Brian Hurskainen.

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

Moved by Butch Eley seconded by Ted Schroeder to adopt current agenda for March 14, 2022 Regular Meeting. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

PUBLIC NOTICE - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, March 11, 2022. 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 that he and Dave Ptak spoke to the Leadership Hastings group.

Councilmember Schroeder reported on the upcoming election. He attended the Airport Advisory Board meeting. The YMCA is working on their capital campaign.

CITIZEN COMMUNICATIONS:

None.

MAYOR'S COMMUNICATIONS:

Mayor Stutte thanked the Fire Department and other city departments for their work battling the downtown fire at Bert's Pharmacy, 700 West 2nd Street. He thanked volunteer fire departments from Hastings Rural, Glenvil, and Juniata, for providing mutual aid.

Mayor Stutte recognized Service Anniversary Years for Mike DeBoer, Utility, 30; Joseph Hermann, Fire, 10; Carla Scheierman, Museum, 10; Gretchen Kelly, Museum, 5; Matt Monroe, Police, 40; Teri Schelkopf, Development Services, 30.

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, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

(a) Approval of the minutes of the Council Meeting of March 1,

(b) Approval of the minutes of the Worksession of February 21, 2022

(c) Approval of claims and payroll

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

(e) Approval of Work Order EL-199, removing one 3 phase padmount transformer and installing a new 3 phase padmount transformer to serve new hospital building located at 715 North Kansas Avenue

(f) Approval of Work Order GA-361, relocation and upgrades for Noah's Ark meterset on "M" Street

REGULAR AGENDA:

2. Unfinished Business of Preceding Meeting.

None.

3. Public Hearings.

(a) Public hearing on the application of BG Olive Saloon, LLC dba "BG Olive Saloon" for a Class "C" Liquor License at 423 W. 3rd Street. Clint Schukei spoke on behalf of Police Chief Story. He reported that no issues were found. Recommend approval of liquor license and manager application (next item). No objections. No public spoke.

Moved by Ginny Skutnik seconded by Shawn Hartmann to approve Resolution No. 2022-09 approving the application of BG Olive Saloon, LLC dba "BG Olive Saloon" for a Class "C" Liquor License at 423 W. 3rd Street. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

(b) Moved by Shawn Hartmann seconded by Chuck Rosenberg to approve of the manager application of Bradley J. Gregory in connection with the Class "C" Liquor License of BG Olive Saloon, LLC dba "BG Olive Saloon" located at 423 W. 3rd Street. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

(c) Public hearing on the request of Troy Stickels to change zoning from "R-3, Multiple Family Residential District" to "C-3, Commercial Business District" for property commonly addressed as 1430 West 16th Street, Hastings, Nebraska and to amend the Zoning District Map. Brian Hurskainen spoke on this item. This zoning change is for the YMCA property. This is to fix an inconsistency in the zoning map. Indoor recreation and entertainment businesses are not allowed within an "R-3" zoning, but it is allowed in "C-3". No objections. No public spoke.

ORDINANCE NO. 4697 AMENDING THE ZONING DISTRICT MAP TO CHANGE ZONING FROM "R-3, MULTIPLE FAMILY RESIDENTIAL DISTRICT" TO "C-3, COMMERCIAL BUSINESS DISTRICT" FOR PROPERTY COMMONLY ADDRESSED AS 1430 WEST 16TH STREET, HASTINGS, NEBRASKA

Said Ordinance was read by title and thereafter Councilmember Matt Fong moved for passage of the ordinance, which motion was seconded by Councilmember Shawn Hartmann.

The Mayor then stated the question "Shall Ordinance No. 4697 be passed and adopted?" Upon roll call vote the following Councilmembers voted Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

Councilmember Ginny Skutnik moved that the statutory rule requiring reading on three different days be suspended; Councilmember Matt Fong seconded the motion to suspend the rules and upon roll call vote the following Councilmembers voted Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg,

Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion to suspend the rules was adopted by three fourths vote of the Council and the statutory rule was declared suspended for consideration of said ordinance.

The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted upon second and final reading and the Mayor signed and approved the ordinance. City Clerk attested the passage approval of the same and affixed her signature thereto. Published in the Hastings Tribune on March 18, 2022. Effective date of the ordinance is 15 days from and after the date this ordinance is passed and approved.

(d) Public hearing on the request of the City of Hastings Development Services Department to amend City Code Chapter 34 regarding definitions of hotels and motels. Brian Hurskainen spoke on this item. This is to clean up the requirement of twelve rooms for hotels and match motels to surrounding communities. No objections. No public spoke.

ORDINANCE NO. 4698 AMENDING SECTION 34-104 OF THE CITY CODE OF THE CITY OF HASTINGS TO PROVIDE FOR A CHANGE IN THE DESCRIPTIONS AND CATEGORIES OF USES OF LODGING HOTEL AND LODGING MOTEL

Said Ordinance was read by title and thereafter Councilmember Chuck Rosenberg moved for passage of the ordinance, which motion was seconded by Councilmember Ted Schroeder.

The Mayor then stated the question "Shall Ordinance No. 4698 be passed and adopted?" Upon roll call vote the following Councilmembers voted Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

Councilmember Matt Fong moved that the statutory rule requiring reading on three different days be suspended; Councilmember Shawn Hartmann seconded the motion to suspend the rules and upon roll call vote the following Councilmembers voted Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion to suspend the rules was adopted by three fourths vote of the Council and the statutory rule was declared suspended for consideration of said ordinance.

The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted upon second and final reading and the Mayor signed and approved the ordinance. City Clerk attested the passage approval of the same and affixed her signature thereto. Published in the Hastings Tribune on March 18, 2022. Effective date of the ordinance is 15 days from and after the date this ordinance is passed and approved.

(e) Public hearing on the request of Randy Chick regarding Plan Modification No. 2022-1 to amend the Redevelopment Plan for Redevelopment Area Number #14, Trail Ridge Addition 2.0, generally located southwest of East 33rd Street and East Laux Drive, Hastings, Nebraska. Brian Hurskainen spoke on this item. This is for Tax Increment Finance (TIF) money to create streets in the Trail Ridge Subdivision, mainly along the west side. This will allow for thirty-three (33) single family homes. Michael Krings, Hastings Economic Development Corporation (HEDC), spoke in support. He reported this is Phase 2. He gave an update at a recent City Council Worksession. There is an item later on the agenda to approve a bid for paving this area. The expected completion is in October 2022. No objections were received.

Moved by Ginny Skutnik seconded by Butch Eley to approve Resolution 2022-05, Plan Modification No. 2022-1 to amend the Redevelopment Plan for Redevelopment Area Number #14, Trail Ridge Addition 2.0, generally located southwest of East 33rd Street and East Laux Drive, Hastings, Nebraska. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

(f) Public hearing on the request of Greg and Julie Ellenwood for a Conditional Use Permit for a storage facility for property generally located north of West 2nd Street and west of North Marian Road, Hastings, Nebraska. Brian Hurskainen spoke on this item. There is a small amount of wetland towards the northwest, which is owned by the City of Hastings. They only plan to use the east half to two-thirds to get started. This was approved by Planning Commission. They came up with hybrid standards. Conditions are listed below. No public spoke. No objections were received.

Moved by Butch Eley seconded by Chuck Rosenberg to approve Resolution 2022-06, approving the request of Greg and Julie Ellenwood for a Conditional Use Permit (CUP) for a Storage Facility for property generally located north of West 2nd Street and west of North Marian Road, Hastings, Nebraska. Subject to the following conditions:

- 1) The applicants' Self Service Storage Site Plan with inclusive dimensions of buildings, parking locations, access and easement location notes are hereby approved and applicant agrees to comply to all inclusive details.
- 2) Applicant must provide a detailed landscape plan following provisions listed in Section 34-305 of the Hastings City Code at the time of building permit application.
- 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.

Drainage was brought up for discussion. Brian stated that the drainage has been looked at by the Civil Engineer and was adequate. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

(g) Public hearing on the request of Brian Jorde, legal representation for Prairie Thunder Hastings LLC, West Fork, Inc. and Gremco Inc., to change the zoning from "A, Agriculture" to "C-3, Commercial Business District" for property generally located to the north of Walmart and West 42nd Street and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County, Hastings, Nebraska and to amend the Official Zoning District Map.

Mayor Stutte explained that both public hearings, Items 3(g) and 3(h) will be held together. He also stated that attorneys representing the applicants and the opposition would be given 45 minutes each to speak, then 10 minutes each for rebuttal. Each citizen wishing to speak will be given up to three minutes.

Clint Schukei explained the protest, defined under City Code Section 34-801(3) and the comparable State Statute. There are two applications: zoning change and Conditional Use Permit (CUP). Written protests were received by Development Services. Three out of the seven property owners, within 300 feet, protested the zoning change. One out of three properties, within 300 feet, protested the Conditional Use Permit (CUP) for the race track. The protests exceeded the twenty percent, for both applications. Therefore, a super majority of the City Council would be required to pass either the rezone or the CUP on this property. This means that six affirmative votes are needed to either pass the zoning change or the CUP.

Clint Schukei reported we were made aware of an alleged conflict of interest involving Councilmember Schroeder and a real estate business that he had been associated with in the past. We investigated the allegation, talked to Councilmember Schroeder, and reached out to the Nebraska Accountability and Disclosure Commission. After the Nebraska Accountability and Disclosure Commission's review, we received a written declaration from them that there was no Conflict of Interest by Councilmember Schroeder. Councilmember Schroeder spoke to explain the absence of Conflict of Interest on his part.

Lisa Parnell-Rowe presented on both Public Hearing Items 3(g) and 3(h). The request for rezoning is to take the agricultural land to rezone to C3 (heavier commercial district). This rezone would allow the applicant to build a 40,000sq.ft. casino on this land. She explained the surrounding zoning and the Future

Land Use Map. This map is a mixed use of suburban, residential, and commercial/retail. A portion of the area is floodway, which is not a buildable area. There is a no-rise procedure to go through for permits in this area. Any necessary permits would be undertaken by the applicants. Development will be pushed up to miss the floodplain. This area is the primary gateway for our community to the north. The Comprehensive Plan speaks to the strength of the small town charm and character. Looking at the Transportation and Parking Plan, it also speaks to the 'Small Town Charm' of Hastings. We are tasked with determining the best use of this area. The staff and Planning Commission recommendation is to disapprove the rezone to C3.

The Conditional Use Permit (CUP) is for the area right above where the applicant wanted rezoned. It will remain agriculture. What they are proposing is a racetrack. In Agriculture zoning, the racetrack could be allowed by conditional use permit. She pointed out the CUP standards in the code and how those would be met by the applicant. The current Comprehensive Plan was completed in 2009, and we want to ensure compliance with the plan, and purpose and intent of the zoning regulations when we are considering this use. Lisa said it is recommended that the Comprehensive Plan be completed every ten years. The Planning Commission recommendation was to disapprove the CUP. Mr. Jorde brought up the question as to what property owners were counted in the protest. Clint Schukei stated he did not count the City of Hastings, Adams County, or the State of Nebraska, as it would be inappropriate for those to file an objection.

Brian Jorde, Domina Law Group in Omaha, represented Prairie Thunder Hastings LLC, and Hastings Exposition and Racing Inc. and spoke in support of rezoning and the Conditional Use Permit. **Sean Boyd**- Global Gaming of Nebraska, LLC, Chickasaw, Norman, Oklahoma, **Todd Gralla**-with Populous, Norman OK, spoke for in atty time. **Jeff Palik (Olsson GI- Civil Engineer)**

Jordan Adam, Fraser Stryker in Omaha, represented the opposition, and spoke against the rezoning and Conditional Use Permit. Tim O'Keefe 1809 North Elm Ave. and Joe Patterson, 1037 Highland Drive also spoke against.

Speakers For: Alan Anderson, 701 North Shore Drive; Jose Brijeno, 1209 Hwy 377, Dublin, Texas; Breann Becker, 3280 South Marian; Mike Engelhardt, 700 Eastside Blvd; Joel Reiners, 5130 North Adams Central Avenue. **Speakers Against:** Greg Vansgyver, 1514 Heritage; Raul Franco, 3812 Lake Park Lane; Kirk Dielman, 14 Village Drive; Charles Bauer, 1015 North Kansas; Joel Remmers, 821 Madden Road; Matt Sass, 2621 West 9th Street; Duane Niemeyer, 524 Madden Road; Greg Harhay, 1740 Highland Drive; Roger Eigenberg, 1248 North Hewett; Alton Jackson, 820 South Shore Drive.

Council discussion was held on LB 876, that is currently in the legislature. It affects six grandfathered tracks in Nebraska. Mr. Jorde stated they can only move one time for any license holders. In terms of Hastings, this is the only location that will work. Mr. Boyd stated that as LB 876 sits today, they cannot move the license outside the county, but it can be moved outside of the city. They committed to taking the ground back to the way it is if it does not end up working at that location. Boyd stated that they do not see having a casino as close as Grand Island as a problem.

City received 82 total letters. Total submitting parties were 63: 23 FOR and 40 AGAINST.

ORDINANCE NO. 4699 AMENDING THE ZONING DISTRICT MAP TO CHANGE ZONING FROM "A, AGRICULTURE" TO "C-3, COMMERCIAL BUSINESS DISTRICT" FOR PROPERTY GENERALLY LOCATED TO THE NORTH OF WALMART AND WEST 42ND STREET AND TO THE WEST OF TOM OSBORNE EXPRESSWAY IN THE EXTRA-TERRITORIAL JURISDICTION OF ADAMS COUNTY, HASTINGS, NEBRASKA

Said Ordinance was read by title and thereafter Councilmember Butch Eley moved for passage of the ordinance, which motion was seconded by Councilmember Shawn Hartmann. The Mayor then stated the question "Shall Ordinance No. 4699 be passed and adopted?" Upon roll call vote the following Councilmembers voted Ayes: Matt Fong, Shawn Hartmann, Butch Eley, Ted Schroeder. Nays: Chuck Rosenberg, Joy Huffaker, Ginny Skutnik, Jeniffer Beahm. Absent: None. The motion failed.

(h) Public hearing on the request of Brian Jorde, legal counsel for Prairie Thunder Hastings LLC, West Fork Inc., and Gremco Inc., for a Conditional Use Permit for a horse racetrack generally located to the north of Walmart and West 42nd Street and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County, Hastings, Nebraska.

This public hearing was held together with the hearing in Agenda Item 3(g).

Moved by Butch Eley seconded by Shawn Hartmann to approve Resolution No. 2022-07, approving the request of Brian Jorde, legal counsel for Prairie Thunder Hastings LLC, West Fork Inc., and Gremco Inc. for a Conditional Use Permit (CUP) for a horse racetrack generally located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings, Nebraska, subject to the following conditions:

1. There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.
2. The City Clerk shall forward to the register of deeds for recording an affidavit or such other instrument as may be deemed appropriate so as to provide notice to any person examining the real estate records of the existence of this conditional use permit. The recording costs incurred to comply with this section shall be paid by the applicant for the conditional use permit.
3. An annexation to pull the area inclusive of both the Casino and Race track into the City will also be required.
4. A site-tailored Noise Mitigation Plan will be required and should provide evidence to Staff of the anticipated level of noise and should demonstrate how this plan would reduce or screen additional noise from interfering with residential neighbors to the north.
5. A separate Landscape Plan the shows species and evidence of meeting City Code Section 34-305 will be required for building permit approval.
6. A site-tailored Waste Management & Disposal Plan and copies of any necessary State approvals of such will be required for building permit approval.
7. A full and extensive Drainage Study will be required as well as copies of any necessary State and federal entities approvals of related floodplain documentation. Additionally, a maintenance agreement will be required for Permanent Post Construction Best Management Practices (BMPs) of stormwater.
8. A more extensive Traffic Study and copies of any related necessary State and County permits will be required for building permit approval.
9. A copy of the group's approved horse-racing and casino licenses from the Racing and Gaming Commission must be provided prior to approval of a building permit and any construction of this development.
10. A separate parking plan the demonstrates acceptable parking practices for the unique assembly use that doesn't particularly provide seats as shown in the city codes off street parking requirements will be required as a condition of this permit and must be provided for building permit approval.

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

4. General Business.

(a) Moved by Ginny Skutnik seconded by Matt Fong to approve agreement for paving construction in Street Improvement District 2022-1, Project No. CH 2022-01 - Brooking Circle, Frahm Lane and Rittenhouse Street all in the Trail Ridge Addition with Werner Construction for \$443,938.98. Lee Vrooman spoke on this item. The bid letting was held February 17th, receiving two bids, with Werner Construction being the low bidder. This bid was significantly lower than the engineer's estimate.

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

5. Ordinances and Resolutions.

None.

6. Final Passage of Ordinances.

None.

7. Appointments.

(a) Mayor Stutte recommended the following Board and Commission appointments:

City Planning Commission: Brian Hoffman 3/11/2022 to 3/11/2025 Replacement

Business Improvement Board: Tony Harmon 3/11/2022 to 3/11/2025 Reappointment

City Tree Board: Joe Kindig 3/14/2022 to 11/15/2023 Replacement; Jane Marie 3/11/2022 to 3/11/2025 Reappointment; Margret Hermes 3/11/2022 to 3/11/2025 Reappointment; William Locke 3/11/2022 to 3/11/2025 Reappointment

Moved by Ginny Skutnik seconded by Matt Fong to approve Mayor Stutte's recommendations as presented for Board and Commission Appointments. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

8. Miscellaneous and Other Business.

None.

Moved by Ginny Skutnik seconded by Matt Fong there being no further business to adjourn at 9:29 P.M. Roll Call: Ayes: Matt Fong, Shawn Hartmann, Chuck Rosenberg, Joy Huffaker, Butch Eley, Ted Schroeder, Ginny Skutnik, Jeniffer Beahm. Nays: None. Absent: None. The motion carried.

APPROVED:

Corey Stutte, Mayor

ATTEST:

Kimberly S. Jacobitz, City Clerk

(S E A L)