

CITY OF HASTINGS, NEBRASKA
MINUTES OF PLANNING COMMISSION WORKSESSION
November 15, 2022

Pursuant to due call and notice thereof, a Worksession Meeting of the Planning Commission of the City of Hastings, Nebraska was conducted in the Council Chambers of City Hall, 220 N. Hastings Avenue, Hastings, Nebraska on November 15, 2022.

The Worksession was called to order at 4:00 p.m. by Planning Commission Chair Greg Sinner with the following members present: Greg Sinner, Ann Hinton, Michelle Lewis, LaDaun Schoenhals, Lou Kully. Brian Hoffman (entered meeting at 11:43 a.m.) Absent: Rakesh Srivastava, Shawn Rossi, Jacque Cranson, Jody Stutzman.

Chair Sinner led the members of the Planning Commission in recital of the Pledge of Allegiance to the United States of America.

Moved by Lou Kully, seconded by LaDaun Schoenhals, to adopt the current agenda for the Worksession Meeting of the Planning Commission. The voice vote was unanimous. The motion carried.

Official Notice of the Worksession was published in the Hastings Tribune on Friday, August 26, 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.

Chair Greg Sinner stated the home occupations discussion is the agenda item for discussion. The minutes from the August 16, 2022 were provided to the members present.

Brian Hurskainen gave the background. No recommendations were given from the last meeting.

Chair Greg Sinner asked Taylor Smith, Code Enforcement Officer, to speak to the home occupation issues he has encountered.

Taylor Smith stated there have been three home occupations complaints. Two were called in by the neighbors/public. Of the three, one is a retail/bait store, a construction/roofing company parking issue, and a lawn mower repair business. I contact the owner and have a conversation with them. I asked the construction company not to park all of their vehicles on the street. I try working with people before going any further. The original code didn't provide any leniency. It doesn't allow me to work with people. This new process will open up the avenue to work with people. By having a permit process, it would allow me to not just tell them they cannot do their home occupation.

Chair Greg Sinner stated it is pretty much complaint driven.

Taylor Smith concurred. The third complaint was out in the public.

Chair Greg Sinner asked Taylor if he sees this as a complaint driven situation?

Taylor Smith concurred. Unless there is a complaint, I would have no idea they have a home occupation.

Brian Hoffman entered the meeting at 11:43.

Chair Greg Sinner asked if there is anything in the proposal that should be deleted. Just to let the commissioners know what your thoughts are on these changes.

Taylor Smith stated the changes open up the avenue and does not restrict the code as much. The permit process may be used if there is a problem.

Michelle Lewis: Do you feel you need the permit process to make this work?

Taylor Smith: It's another avenue. Maybe not everyone would get a permit, but if there is a problem, you would apply for a permit. This would be on an individual basis.

Chair Greg Sinner: So you are not going to actively tell people they need a permit, until you run into a situation in which you need to examine the home occupation closer.

Taylor Smith: The permit process may be an extra step in regulating the problematic home occupations.

Ann Hinton: I like the idea of it being a reactive permit. We do have this in the code and you do need a permit. Who is going to make the determination of a legitimate home occupation?

Brian Hurskainen: As determined by the Development Services Director. If they did not agree with the DSD, they are entitled to an appeal. Cannot list every home occupation.

Chair Greg Sinner: Any appeal would go to the Board of Adjustment?

Brian Hurskainen: Concurred.

Brian Hoffman: Everything listed are home occupations that are not ruining our residential neighborhoods. The south violation is one to be concerned about.

Chair Greg Sinner: I take that as examples. Let's not use specific examples.

Brian Hurskainen: Do we want to just list all that are prohibited?

Chair Greg Sinner: Stay away from examples.

Ann Hinton: Could we reword 16. Permitted home occupations that were approved by the Development Services Director.

Chair Greg Sinner: You could do the approval in house.

Lou Kully: Most should be handled by staff.

Chair Greg Sinner: We leave the old 16 in that is struck with some changes, but gives the authority to the Development Services Director.

Ann Hinton: That makes it consistent. 16 needs to be in to create a permitted use. We talked about this and it is in our minutes, Lisa said parameters for adding employees, however, that means it did not get changed. This was benchmarked from the Kearney occupation code. It did not get changed.

Brian Hoffman: It was based around permitted parking around the home for the home occupation.

Brian Hurskainen: However, many employees you have that is the number of parking spaces you need.

Taylor Smith: Complaints with parking on the street makes it hard to enforce. I don't know whose car belongs to who.

Chair Greg Sinner: Since this is complaint driven, Taylor will check into the complaint, fill out the permit, look at the home occupation more closely, including parking.

Taylor Smith: Concurs. If it's a complaint, I can look at it more closely.

Chair Greg Sinner: If there is a parking issue, then the police go out to make the determination.

LaDaun Schoenhals: The fee for the permit. Do you think \$40 is good or do we need one at all.

Brian Hurskainen: If it's going to be a big deal with the city council and the public, we do not need it.

Chair Greg Sinner: Let's go down the line. Fee or no fee?

Chair Greg Sinner: No charge

Michelle Lewis: No charge

Ann Hinton: No charge

Lou Kully: No charge

Brian Hoffman: No charge

Michelle Lewis: No fee

Ann Hinton: No fee

Lou Kully: No fee, maybe a 2nd time

Taylor Smith: If they are not going to be compliant, that could be cause for a citation.

LaDaun Schoenhals: The people that are grandfathered in, there are people that have home occupation in accessory buildings in a residential area.

Chair Greg Sinner: Grandfathered in means everything they are doing is allow. I do not believe we are talking about that. If we are complaint driven, we should have the ability to go out and use the tools at hand to remedy it. If a guy has gone under the radar for 20 years and making their neighbors mad, they need to be remedied.

Chair Greg Sinner: You are working with them and they are responding. We are getting things done in a timely matter.

Brian Hoffman: I'm not in favor of the fee. All the code enforcement we are creating today, you could enforce?

Taylor Smith: Yes. It gives more clarity. More businesses are in this list. If we do a permit it would give another avenue.

Brian Hoffman: if it is a no fee permit, we should enforce the code without having a permit in place. If you are constantly reviewing that documentation, it is stopping you from doing code enforcement. No body is going to file for a permit. If you use the permit as an enforcement tool, it opens a can of worms, and gives credence to the city going into a home.

Taylor Smith: Permits would be on a complaint basis. I could look at that permit individually, only on a complaint basis as needed.

Brian Hoffman: If you get a noise complaint, an inspection deemed by the city would allow the city to come in and inspect that home occupation.

Chair Greg Sinner: You can call on the departments for their expertise.

Brian Hoffman: I would just like to give you the authority. I would rather you write a citation rather than having a permitted situation.

Taylor Smith: At this time, I can give them a notice and order.

Ann Hinton: The permit as described here is a lot of paperwork.

Brian Hurskainen: They are allowed to go to the Board of Adjustment, and the Board has a lot of rules from State Statute to get those approved. Typically, the City does not endorse a lot of BOA cases.

Michelle Lewis: Taylor can either go out and give them a citation. He is asking for more flexibility.

Taylor Smith: I am always going to try and work with people.

Chair Greg Sinner: Do you feel if we put the non fee permit tool in here, it would be good going forward.

Taylor Smith: Yes. It would give me another avenue.

Ann Hinton: We need to look at #15.

Chair Greg Sinner: I do not want to impose things on your job. I want you to achieve compliance in the neighborhood.

Taylor Smith: As long as they have a sufficient setup, the home occupation should be acceptable.

Chair Greg Sinner: I don't like inspectors going into private homes. We are going to do our best to prepare a document for you and on to the city council. We want you to come back to the Planning Commission in 6 months to a year and see how things are working. Let us know do we need to fine tune the ordinance.

Brian Hoffman: Is it easier to pass the ordinance with code changes and no permit provision? I totally expect revisions from citizens or from you Taylor. We need to give you the proper tools.

Taylor Smith: I get complaints everyday. There are always two sides to every story.

Chair Greg Sinner: I think you have the right approach. I want to give you the tools to do your job, however, protect the rights of the citizens. The one thing we have decided is a no fee permit. I want a poll on the need for a permit.

Chair Greg Sinner: Yes, permit process in the ordinance.

Michelle Lewis: Yes, permit process in the ordinance.

Ann Hinton: I agree with the permit, do not agree with the conditions under #15.

Lou Kully: I agree with the permit process.

LaDaun Schoenhals: I agree with the permit process.

Brian Hoffman: No permit necessary.

Chair Greg Sinner: Taylor needs broad discretionary powers. He needs to determine what is contained on the permit.

Ann Hinton: What is on that permit needs to added and decided by Taylor.

Brian Hurskainen: For this reactive permit what are we really getting out of regular code enforcement. We are not asking you to hire an engineer.

Taylor Smith: Case by case, complaint driven.

Chair Greg Sinner: If they voluntarily come down to City hall, fill out the permit, you go on record and it gives you legitimacy. Not required, however, recommended.

Taylor Smith: I go in and say you are fine with the requirements of the home occupation.

Brian Hurskainen: Why wouldn't we have that for everyone? Case by case, or codified.

Taylor Smith: The few I've had are complain driven. Neighbor to neighbor disputes.

Brian Hoffman: I agree with the retroactive. I agree with the City. I can have my business here. That gives justification.

Brian Hurskainen: We give them a letter of approval. That's why a lot of those items with the floor plan is important.

Chair Greg Sinner: I think you two can work this out – justify it at our next meeting. We need to move forward as a Commission.

Thank you for coming today. Get us a document that we can look at and push onto the City Council at next meeting. Council liked the work session. I plan on calling more work sessions, however, only when needed.

In anticipation of the September 20th meeting, we will review this document, Taylor be at meeting on the 20th and Randy Chick will give a presentation on TIF.

Brian Hoffman: We need to understand what that TIF is doing for the city.

Chair Greg Sinner: Brian look at north and south Burlington and see how the zoning is now and how it has evolved between north and south Burlington.

Brian Hoffman: We also need to look at zoning north. The Comprehensive Plan is a big overhaul and a great deal of detail into the project.

Brian Hurskainen: Clint Schukei looks at all of these.

Moved by LaDaun Schoenhals, seconded by Brian Hoffman, to adjourn. Unanimously approved.