

CITY OF HASTINGS, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
Monday, December 11, 2023

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 Municipal Airport, 3300 W. 12th Street, on December 11, 2023.

The meeting was called to order at 5:30 p.m. in Regular Session by Mayor Stutte with the following members present: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Marc Rowan, Shawn Hartmann, Matt Fong, Butch Eley. Absent: Joy Huffaker.

The following City Officials were present: City Administrator, Shawn Metcalf; City Attorney, Jesse Oswald; Utility Manager, Kevin Johnson; City Clerk, Kimberly Jacobitz; Police Chief, Adam Story; Fire Chief, Brad Starling; Parks & Recreation Director, Jeff Hassenstab; Finance Director, Roger Nash; Information Technology Director, Erik Nielsen; Director of Engineering, Lee Vrooman; Director of Development Services, Chad Bunger; Museum Director, Teresa Kreutzer-Hodson; Public Information Manager, Tony Herrman; Library Director, Amy Dissmeyer; Director of Safety, Trent Clark; Director of Energy Production & Supply, Derek Zeisler; Environmental Engineering, Marty Stange.

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

Moved by Butch Eley seconded by Shawn Hartmann to adopt current agenda for the December 11, 2023 Regular Meeting. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

PUBLIC NOTICE - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, December 8, 2023. 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 available for public review. Also, a current copy of the Nebraska Open Meetings Act is posted and accessible to members of the public.

COUNCIL COMMUNICATION:

Councilmembers Beahm and Huntley thanked all for coming out to the Ward 1 town hall meeting.

CITIZEN COMMUNICATIONS:

None.

MAYOR'S COMMUNICATIONS:

Mayor Stutte recognized service anniversaries for Dean Thompson, Utilities, 25; Steven Archibald, Police, 5 ; Brandan Kelley, Street, 5; Jenna Trausch, Museum, 10.

Megan Patent-Nygren, Nebraska LTAP (Local Technical Assistance Program), recognized the City's Street Department (Dustin Lockling) for a state-winning Asphalt Hotbox Trailer created for Build a Better Mousetrap entry in 2023.

Troy Stickels gave an update on the YMCA project.

CONSENT AGENDA:

1. All Consent Items.

Moved by Matt Fong seconded by Shawn Hartmann to approve all consent items, as presented. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

(a) Approval of the minutes of the Council Meeting of November 27, 2023

(b) Approval of the minutes of the Worksession of November 20, 2023

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

(d) Approval of Invoice No. 1645 from South Central Economic Development District in the amount of

\$1,200.00 for grant administration services for Community Development Block Grant Project 19-DTR-103, Downtown Revitalization

(e) Approval of the request for Community Development Block Grant funds, Drawdown #17, in the amount of \$1,200.00 for grant administrative services for Community Development Block Grant Project 19-DTR-103, Downtown Revitalization

(f) Approval of Work Order EL-267, change out existing transformer due to a larger load for new garage condo at Motorsport Park Hastings

(g) Approval of Work Order GA-378, new two inch PE gas main on Utecht Circle, 39th Street north 250', for new development

REGULAR AGENDA:

2. Unfinished Business of Preceding Meeting.

(a) Moved by Jeniffer Beahm seconded by Butch Eley to approve Resolution No. 2023-32 adopting the City of Hastings Engineering Department 2024-2029 One and Six Year Street Improvement Plan.

Lee Vrooman stated that he did not have anything to add from the presentation at the last council meeting. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

3. Public Hearings.

(a) Public hearing on the request of Joe Kindig for an amendment to an approved Conditional Use Permit for a neighborhood assembly use for property commonly addressed as 780 E. 26th Street, Hastings, Nebraska. Chad Bunger gave a presentation. In 2005 a Conditional Use Permit (CUP) for a tree farm was approved for the previous owner. In 2021 the CUP was amended to allow a "neighborhood assembly" use for the current owners. The current owners are seeking another amendment. They sought two amendments: hours of operation to extend to 10:00 P.M. and permitting limited consumption of alcohol. The Planning Commission added a third amendment, to remove Condition #2 from Resolution 2021-31, which was in regard to an existing private easement for usage during the Christmas Tree business season. The Planning Commission recommended all three amendments to the CUP.

Spoke For: Joe Kindig, 2520 North Elm Avenue

Spoke Against: Roger Duerling, 880 East 26th Street

Spoke Either Way: Jodi Stutzman, 709 North Briggs; Dave Rippe, 1312 Heritage Drive; Jacque Cranson, 1805 Westchester

Moved by Shawn Hartmann seconded by Butch Eley to approve Resolution No. 2023-41 approving the request of Joe Kindig for an amendment to an approved Conditional Use Permit for a neighborhood assembly use for property commonly addressed as 780 E. 26th Street, Hastings, Nebraska.

Chad Bunger stated that he took a conservative approach in his review and recommendations to the Planning Commission. He recommended approval of the extension of hours, and denial of the request for consumption of alcohol. He was unaware of the third item until it was brought up during the Planning Commission meeting. Chad commented that the State has requirements on "Bring your own beverage" events. Those requirements include not being open to the public, private event by invitation only. Those regulations greatly reduce the risk for events getting out of hand. Lee Vrooman stated that the Engineering Department is looking at what it would take to get streetlights on that portion of roadway up to 2nd Avenue. Council discussed concerns about allowing alcohol in R1, deficiencies in event space within our community, being pro-commerce, and the business owners' responsibilities.

Joseph and Nikayla Kindig stood to answer questions from the City Council. One of them is at every event held, to monitor and mitigate any issues. Their venue is limited to 100 people or less, with usual attendance between 25-50. No security is required for the size of events they would allow with alcohol consumption. Police Chief Story explained the security required for Special Designated Licenses (SDL). This is different, since it would be "Bring your own beverage". These can only be private events.

Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Shawn Hartmann, Matt Fong. Nays: Marc Rowan. Absent: Joy Huffaker. The motion carried.

4. General Business.

(a) Moved by Matt Fong seconded by Shawn Hartmann to approve of claim of Eldon's Automotive Repair in the amount of \$294.38 (City). Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

(b) Presentation of the Citizen Survey results by ETC Institute

Ryan Murray, Assistant Director of Community Research ETC Institute, 725 West Frontier Circle, Olathe, Kansas, gave the presentation of the Citizen Survey results. These results are also located on the city's website attached as files to this meeting (www.cityofhastings.org). ETC Institute mailed 3,500 surveys to random addresses. There were 558 surveys completed, for a 16% response rate. There were a minimum of 100 surveys collected in each of the four wards, with a confidence level of 95%. The perception is that we have things to improve: dining, entertainment, and affordable housing were mentioned. Citizens like what we have, but want more or new options. Benchmarks are helpful and add context to the results. The goal of administering an annual community survey is to understand our strengths and weaknesses according to our customers, the residents of Hastings. From the results, City Council and staff work together to develop strategies that prioritize limited resources to improve and/or enhance services that residents view as priorities. All of this information is for the council for decision-making on a variety of topics. We will post the information dashboard on the city's website as soon as it is available from ETC.

(c) Moved by Butch Eley seconded by Shawn Hartmann to approve of a Preliminary/Final Plat for Vandeventer Subdivision, in Adams County, Nebraska. Chad Bunker reported that the plat is for a piece of land that was previously subdivided from a larger piece of ag land. The remaining portion would be deeded back to the unplatted farmland so that the homestead could be parceled off and sold. The City of Hastings Planning Commission recommended approval to the Mayor and City Council by a vote of 7-0 at their November 14, 2023 meeting. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

(d) Moved by Matt Fong seconded by Shawn Hartmann to accept the City of Hastings Affordable Housing Action Plan prepared by Marvin Planning Consultants and Community Planning Insights.

The draft plan was prepared for the City by Marvin Planning Consultants and Community Planning Insights to comply with Nebraska Revised Statute 19-5501 - 19-5506. The plan researches the City's housing market conditions using available public data sources to develop a plan of action to help the Hastings community provide affordable housing to meet our current and future residents' needs. Adoption of the action plan is a requirement of the 2020 State legislation. If the City does not adopt this plan by January 1, 2024, the statute will require the City to allow the development of this plan. The Development Service staff and our regional partners in housing will routinely review and update this action plan as more information is received, and action items are completed or revised to meet the ever-changing housing conditions in the region. This is step one of addressing affordable housing. Marvin Planning is assisting us with our Comprehensive Plan and Zoning Regulation updates. Chad intends to start implementing a large portion of the work for city and regional partners. If we need further assistance with design or policy work, we will go out for proposals. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

5. Ordinances and Resolutions.

(a) ORDINANCE NO. 4750 AMENDING SECTION 18-148 AND REPEALING SECTION 18-149 OF THE HASTINGS CITY CODE PERTAINING TO RESIDENCY RESTRICTIONS FOR SEXUAL PREDATORS

Jesse Oswald spoke on this item. The Code sections as written in 2006 are unenforceable.

Subsequently, to the City of Hastings establishing the current ordinances, the Nebraska legislature passed LB285 which amended the Nebraska Sex Offender Registration Act in an attempt to become compliant with the Adam Walsh Act. The City's ordinances on this matter have not yet been updated to reflect these required changes. This is getting us into compliance, so that we can enforce these codes.

Said Ordinance was read by title and thereafter Councilmember Shawn Hartmann moved for passage of the ordinance, which motion was seconded by Councilmember Jeniffer Beahm. Upon roll call vote the following Councilmembers voted Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

Councilmember Shawn Hartmann moved that the statutory rule requiring reading on three different days be suspended; Councilmember Jeniffer Beahm seconded the motion to suspend the rules and upon roll call vote the following Councilmembers voted Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. 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 ordinance is declared to be lawfully adopted upon publication as required by law.

(b) Moved by Butch Eley seconded by Shawn Hartmann to approve Resolution No. 2023-39 Approving Electric Payment in Lieu of Taxes Structure. Kevin Johnson reported that this resolution was previously discussed at two different City Council Worksessions. The City's Utilities Department performed a comparability study and determined that the Payment in Lieu of Taxes paid by most other cities throughout Nebraska was based on retail only. The resolution changes the current Electric Payment in Lieu of Taxes structure from being based off of a combination of wholesale sales and retail sales to being based on electric sales of Retail Only. Our Utility Advisory Board is in place to vet large issue items, such as this one. There is an intended reduction to go from 5.6% wholesale and retail to just retail, phased down from 6.1% to 5.2%. This calculation is a net amount. Roll Call: Ayes: Jeniffer Beahm, Butch Eley, Shawn Hartmann, Matt Fong. Nays: Steve Huntley, Brad Consbruck, Marc Rowan. Absent: Joy Huffaker. Mayor Stutte voted in favor of Resolution No. 2023-39. The motion carried.

(c) Moved by Shawn Hartmann seconded by Matt Fong to approve Resolution No. 2023-40 Approving Electric payment in Lieu of Taxes rate adjustment. Kevin Johnson reported that this resolution was previously discussed at two City Council Worksessions. The City's Utilities Department performed a comparability study and determined that the average Payment in Lieu of Taxes paid by other cities throughout Nebraska was 5.2%. The resolution takes a phase in approach with regard to changing the Payment in Lieu of Taxes to match comparability, starting it at 6.1% for FY23 and incrementally lowers it to a rate of 5.2% for FY27. This is phased in over a 5-year period. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Butch Eley, Shawn Hartmann, Matt Fong. Nays: Brad Consbruck, Marc Rowan. Absent: Joy Huffaker. The motion carried.

Moved by Steve Huntley to reconsider Resolution No. 2023-40 for the purpose of re-voting. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Shawn Hartmann, Matt Fong. Nays: Marc Rowan. Absent: Joy Huffaker. The motion carried.

Moved by Shawn Hartmann seconded by Matt Fong to approve Resolution No. 2023-40 Approving Electric payment in Lieu of Taxes rate adjustment. Roll Call: Ayes: Jeniffer Beahm, Butch Eley, Shawn Hartmann, Matt Fong. Nays: Steve Huntley, Brad Consbruck, Marc Rowan. Absent: Joy Huffaker. Mayor Stutte voted in favor of Resolution No. 2023-40. The motion carried.

(d) Moved by Shawn Hartmann seconded by Butch Eley to approve Resolution No. 2023-42 setting January 22, 2024, at 5:30p.m. at the Hastings Municipal Airport, 3300 West 12th Street, as the date of public hearing on the annexation of the following three areas that are adjacent to the Hastings City Limits: Area #1, East 26th Street and North 2nd Avenue, Area #2, Industrial Park North; Area #3, Industrial Park West Area. Chad Bunker reported that this is a requirement of the State Statute to pass a resolution to set the hearing date and to alert the public that the extension of service plan is available for viewing. The City Council would have 60 days to conduct a public hearing for the reading of an ordinance to annex these areas upon adoption of a resolution to set the public hearing date. City staff is recommending that the public hearing date be set for January 22, 2024. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

6. Final Passage of Ordinances.
None.

7. Appointments.
(a) Appointments to Boards and Commissions

Moved by Matt Fong seconded by Shawn Hartmann to approve Mayor Stutte's appointment to the Board of Adjustment as follows: Nic Dowling, dates of term 12/11/2023 to 12/11/2026, Replacing
Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

8. Miscellaneous and Other Business.
None.

Moved by Steve Huntley seconded by Butch Eley there being no further business to come before the council to adjourn at 7:43 P.M. Roll Call: Ayes: Steve Huntley, Jeniffer Beahm, Brad Consbruck, Butch Eley, Marc Rowan, Shawn Hartmann, Matt Fong. Nays: None. Absent: Joy Huffaker. The motion carried.

APPROVED:

Corey Stutte, Mayor

ATTEST:

Kimberly S. Jacobitz, City Clerk

(S E A L)