

COUNCIL CHAMBERS, MONDAY, JANUARY 27, 2014 AT 7:00 P.M.

The meeting was called to order in regular session by Mayor Powers with the following members present: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Absent: None.

Moved by Skutnik, seconded by Niemeyer that the Open Meetings Act is posted on the southeast wall of the City Council Chambers and that prior to this meeting a notice was placed in the Hastings Tribune on January 24, 2014, that notice was posted in three public places, that each Councilmember and Mayor received a copy of the proposed agenda and that an agenda for such meeting, kept continuously current, is available for public inspection and that said meeting is held in open session. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

**REPORTS OF LIAISONS:** Councilman Goebel reported on the January 16<sup>th</sup> Board of Public Works Meeting. VanKirk Construction Company has started construction on the 42<sup>nd</sup> Street sewer line. The Pollution Control Center project is on schedule and progressing satisfactorily. WEC I and II are both on line. Board Member Jeff Kully was elected Assistant Secretary for the Board of Public Works, if both the Chairman and the Secretary were gone from the meeting, they would still have a quorum with the other three and yet still have a leader for the group. An Engineering Agreement with JEO Consulting Group was approved for design of the North Baltimore Avenue high nitrate water storage lagoon. This would be utilized by the future Water Treatment Plant and also by ongoing efforts, present time on, to try to delay the construction of this very, very expensive plant and subsequent increase in water rates for the residents of Hastings. Councilman Goebel stated he is really pleased with a number of the things the Board of Public Works and Hastings Utilities are doing in trying to compensate for the high nitrate, uranium in the water, etc. to delay construction of this plant. By delaying it, we not only delay ongoing costs associated with it, but a possibility of future developments to make the design of the plant more long term. This storage lagoon will help not only with the plant when it is eventually needed, but with work they are doing now. There was also discussion about the out of district water and sanitary sewer fees. If Hastings Utilities puts in a sewer and/or water line in front of a piece of undeveloped property and no connections are made to that line at the time, there is not an assessment to that property owner at that time, but if and when that lot or parcel of property develops and connections are made then there is an out of district assessment that is made to that property owner. At this point in time, a title search does not turn that up and every once in a while there will be somebody developing a piece of property and once they start to develop it after they have bought it, they are told “oh, by the way there is a utility assessment on this property”. If they did not research the matter thoroughly, it comes as a bit of surprise. The Board of Public Works and the City Attorney have come up with a form that is a “Notice of Construction Of Utility Improvement”, this form would be filed in a manner that a title search would show that. This form will be used in the 42<sup>nd</sup> Street area.

Marvin Schultes, Hastings Utilities Director, stated as a matter of fact, 42<sup>nd</sup> Street is the first one and the proposed form will be on the agenda to discuss. If the form is approved we would go back and do some others areas where there is some out of district fee due so that there would be some kind of a notice of intent when tpeople search the titles. Some people know and some don't and nobody likes surprises so we are trying to avoid surprises for anyone.

Councilman Goebel stated he believes this is really something good for developers and individuals that would buy an undeveloped lot and construct a home or a business on it. The next regular meeting of the Board of Public Works is January 30, 2014 at 9:00 A.M. at the Hastings Utilities Board Room. There will be a presentation by McDermott & Miller on the 3<sup>rd</sup> Quarter Financial Review, there will be discussion of the HEDC branding plan and a resolution for refunding some Revenue Bonds.

Councilman Goebel stated the Mayor's Youth Council will be meeting on February 3, 2014 in the 2<sup>nd</sup> floor meeting room of the City Building at 7:00 P.M.

**CITIZEN COMMUNICATIONS** None.

**MAYOR'S COMMUNICATIONS:** The Mayor welcomed Jen Berry, she is the new radio media rep.

Moved by Niemeyer, seconded by Harrington that the following items on the Consent Agenda be approved:

- 1(a) Minutes of the Council Meeting of January 13, 2014.
- 2(a) Application of B.L.U.E. for a Special Designated License at the Frances Consbruck Chapman Gymnasium at 301 West 7<sup>th</sup> Street on April 4 and 5, 2014.
- 2(b) Application of the Silver Dollar (Kenesaw) for a Special Designated License at the City Auditorium on March 8, 2014.
- 4(a) Payroll for the period ending February 1, 2014, paid February 7, 2014.
- 4(b) Authorizing the City Clerk to issue checks against the various funds for payment of claims. (Claims attached to and made a part of these minutes).
- 5(a) Department Monthly Reports received and placed on file.

Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel.  
Nays: None. The motion carried.

The Mayor stated the Council would consider Ordinance No. 4380 at this time which was postponed from the December 9, 2013 Council Meeting.

**ORDINANCE NO. 4380**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, VACATING A PORTION OF LAKERIDGE DRIVE IN NORTH SHORE SUBDIVISION, TO THE CITY OF HASTINGS, ADAMS COUNTY, NEBRASKA, AND RETAINING THE PUBLIC UTILITY EASEMENT CONTAINED THEREON; PROVIDING FOR FILING OF THIS ORDINANCE WITH THE REGISTER OF DEEDS OF ADAMS COUNTY, NEBRASKA REPEALING INCONSISTENT PROVISIONS; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT (Vacating the Western 275.80 feet approximately of platted street right-of-way known as Lakeridge Drive which lies adjacent to Lots 1 & 2, North Shore Heights Subdivision)

Said Ordinance was read by title and thereafter Councilman Krings moved for passage of the ordinance, which motion was seconded by Councilmember Skutnik.

Councilman Goebel stated he was really glad that we did postpone this from the previous meeting; we had time to discuss it pretty thoroughly at the Worksession. Councilman Goebel stated he really feels like we should retain ownership of this right-of-way and particularly the utility easement, but does not see any good reason at this time to put in the street. Councilman Goebel stated he believes that Merle Avenue that goes from Lakeridge down to North Shore will take care of traffic that presently exists there satisfactorily and if it doesn't, if we still have ownership of that land, we can put the street in at a later date. Councilman Goebel stated he sees no reason to put a street in there now, only if it was needed for traffic circulation. Councilman Goebel stated he went to the GIS Website and got a map where he could look at that entire block of area from Osborne Drive to Baltimore and from North Shore to 33<sup>rd</sup> Street, and to him, and he knows that is platted in there, it will take some time to develop, but Merle Avenue down to North Shore is going to take care of traffic circulation. Councilman Goebel stated as the development goes north, and hopefully it will over the next 15 or 20 years, we will really need a street to Baltimore. We really need to look at the possibility of getting one in some where north of that Lot 4, but south of Azalea Acres. Councilman Goebel stated he is not sure of the process for making that happen, but thinks down the road it is something we really need to look at. Councilman Goebel stated he feels that Lot 2 that is open right now, and is a choice spot for development, definitely would need a driveway open to Baltimore. Councilman Goebel stated he drove out there the other day, went on north and turned around and came back and as he came over that rise something else he could see is a big need for a lower speed limit. If we have driveways from Lots 2, 3 and 4 coming out onto Baltimore, it would be a real surprise to someone coming from the north to see a car backing out into the south bound lane. Councilman Goebel stated he feels we should not vacate Lakeridge Drive, but maintain ownership of it and

not consider construction on it at this point.

The Mayor questioned if we are still having the problem with the speed limit, one side we control and the other side the County controls; going north you are at 25, but going south you are going 50; that was a problem south of North Shore.

Joe Patterson, City Administrator, stated those properties that are currently being developed are in the city limits and the Spady property is in the city limits and when you plat in you own both sides of the road. The City Administrator stated he doesn't see that being a problem, he had spoken with Councilman Goebel late last week and if we have to work with the County, we could possibly throttle it down from 50 to 40 or 30 at about the time you hit the Spady property.

The Mayor stated he believes there are some misconceptions, someone said we weren't going to be able to put driveways off Baltimore, but the fact is we are going to be able to put driveways off Baltimore.

Councilman Krings stated lower speed limits were brought up at the Worksession and regardless of what happens here tonight, he would like to see staff move forward on putting something in front of the Council to get that slowed down. We talked about access onto Baltimore, and his understanding is the two lots, Lots 3 and 4, are already accessing onto Baltimore, but there has been some question about whether Lot 2, the one where it is really adjacent to where the property we are speaking of, would be allowed to have access onto Baltimore because if there is a right-of-way right to the south of that lot, would they run their driveway on to Lakeridge Drive instead of Baltimore. Councilman Krings stated he would like some clarification from the City Planner or somebody to say, if this was to not pass, Lot 2 would be able to get access onto Baltimore.

The City Administrator stated that the City Attorney has indicated to him that yes they would be able to get access onto Baltimore.

Councilman Krings stated his take on this is that he agrees with a lot of the things Councilman Goebel said, but for the peace of mind for the developers and for the neighborhood, he is going to in favor of the ordinance to vacate because he doesn't see, whether it is now or 20 years from now or it has added more and more properties, any value in having one on the other side of the lot. A lot of people here tonight and in the neighborhood would sleep a lot better knowing that in the future they don't ever have to worry about that road being put in regardless of who is on the Council or who comes in and makes changes. However, he does have a concern with releasing the public utility easement.

The City Administrator stated that is how the ordinance was originally written and it would have to be amended to retain that easement if that is what the Council wants.

Moved by Krings that Ordinance No. 4380 be amended to remove the language “and releasing the public utility easement”.

The City Administrator stated the ordinance the Council has in their packet does retain the easement.

Councilman Krings withdrew his motion.

Councilmember Peterson stated when you say retains City ownership, we don't know when or was there a time limit we were looking at for putting that road in to Baltimore.

The City Administrator stated there is no current plan to pave that road from where it currently terminates out to Baltimore.

Councilmember Peterson stated if you vote no on this, it would mean that that would still be available at a later date.

The City Administrator stated that that is correct.

The Mayor stated as the City Administrator has pointed out, we really don't have to do anything on this issue if we don't want to. We can just let it go, but that probably isn't fair to the landowners and the land holders out there. It is important though that we keep the utility easement and he doesn't see any reason to pave it.

Councilman Harrington stated he doesn't see any reason to pave it either, but he does think since we do have east/west flow problems that we do need to address long term. It is kind of wrong to eliminate an option here and he certainly appreciates the concerns of the neighbors, but believes we are talking really about a solution in search of a problem here. Councilman Harrington stated he doesn't think there is a problem and doesn't think there will be and having said that he can't predict the future and believes we ought to retain the option. Councilman Harrington stated he will be voting against this vacation request.

Councilman Krings moved that the statutory rule requiring reading on three different days be suspended; Councilman Niemeyer seconded the motion to suspend the rules.

Councilman Krings stated if we don't suspend the rules then this will come back three times to the Council. We have discussed this a lot as you are all aware and the motion to suspend is that we all feel like whatever the decision tonight that this will probably be the final decision on this issue whether it is to approve it or deny it.

Upon roll call vote the following Councilmen voted YEA: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. NAY: None. The motion to suspend the rules was

adopted by three fourths vote of the Council and that statutory rule was declared suspended for consideration of said Ordinance.

The Mayor then stated the question was “Shall Ordinance No. 4380 be passed and adopted?” Upon roll call vote the following Councilmen voted YEA: Krings, Skutnik. NAY: Harrington, Peterson, Odom, Niemeyer, Hoops, Goebel. Ordinance No. 4380 fails.

Moved by Harrington, seconded by Skutnik that the Mayor and City Clerk be authorized to execute the Hastings Police Amended and Restated Money Purchase Pension Plan plan amendments to be effective immediately. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Moved by Krings, seconded by Niemeyer that the Mayor and City Clerk be authorized to execute the Hastings Firefighters Amended and Restated Money Purchase Plan plan amendments to be effective immediately. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

**RESOLUTION NO. 2014-2.** . .Setting February 25, 2014 at 7:00 P.M. as the date of public hearing for the final 20% 2014 Incremental Annexation of Central Logistics Services, Inc. (Resolution attached to and made a part of these minutes).

Moved by Hoops, seconded by Peterson that Resolution No. 2014-2 be passed and approved. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

**RESOLUTION NO. 2014-3.** . .Setting February 25, 2014 at 7:00 P.M. as the date of public hearing for the third 20% 2014 Incremental Annexation of Centennial Plastics-HEDC. (Resolution attached to and made a part of these minutes).

Moved by Harrington, seconded by Skutnik that Resolution No. 2014-3 be passed and approved. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

The Mayor advised that he had a conflict of interest with Resolution No. 2014-4 and that Council President Krings would be presiding over action on that Resolution.

**RESOLUTION NO. 2014-4.** . .Setting February 25, 2014 at 7:00 P.M. as the date of public hearing for the 2<sup>nd</sup> 20% 2014 Incremental Annexation of PMP, LLC. (Resolution attached to and made a part of these minutes).

Moved by Goebel, seconded by Niemeyer that Resolution No. 2014-4 be passed and approved.  
Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel.  
Nays: None. The motion carried.

The Mayor resumed presiding over the meeting.

**ORDINANCE NO. 4388**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO AUTHORIZE THE SALE OF CITY PROPERTY; TO PROVIDE THE TERMS OF SALE AND AUTHORIZE THE MAYOR TO EXECUTE AND DELIVER A QUIT CLAIM DEED TO THE PROPERTY; TO PROVIDE FOR REMONSTRANCE TO SAID SALE AS PROVIDED BY LAW; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE (Lots 9-12, Lots 25-32, Lots 37-56, Lot 63, Outlot 57, Outlot 59, Outlot 61 & Outlot 63 in Arbor Subdivision, being a replat of Lot 2, Jacobson's Subdivision)

Dave Ptak, City Attorney, stated the Community Redevelopment Authority (CRA) has found a developer who is interested in providing the development of the Arbor Subdivision in the southern part of the City, close to Highland Park Fire Station. We have driven down there and taken a look at it and the developer is planning on putting in about 24 units in eight tri-plexes. He has a deadline of February 3<sup>rd</sup> to file an application with NIFA for some tax credit financing. The developer is on the CRA agenda tomorrow and this is one of those things we are trying to accommodate. His plan shows about a 3.7 million dollar investment in that particular area and it really is a step forward in that part of Hastings and will finish a project that started several years ago and unfortunately didn't go to complete build out.

Councilman Krings stated the only question brought up during the Worksession was fire access to the property and development to the north of this project, do we have some reassurances that if that is not taken care of yet that we have everything in place to start moving forward with that.

Fire Chief Kent Gilbert stated the fire access is relative to the Regency Apartments which is out the back. We have had contact with them and believes we have a way to work through that. There is an existing fire lane on the south side that we will be clearing up and then we hope to improve the parking lot access to there.

Councilman Krings moved that the statutory rule requiring reading on three different days be suspended; Councilman Goebel seconded the motion to suspend the rules and upon roll call vote the following Councilmen voted YEA: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. NAY: 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 Mayor then stated the question was “Shall Ordinance No. 4388 be passed and adopted?” Upon roll call vote the following Councilmen voted YEA: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. NAY: None. 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 and the Mayor signed and approved the ordinance and the City Clerk attested the passage approval of the same and affixed her signature thereto. Effective date of the ordinance is February 12, 2014.

Moved by Hoops, seconded by Niemeyer that the Council approve the following appointments made by the Mayor:

Tree Board - Reappoint David Glass, term to expire 11/15/2016

Library Board - Appoint Bobbi Bucholz, term to expire 7/1/2018

Planning Commission - Reappoint Paul Hamelink, term to expire 2/1/2017

Reappoint Dave Johnson, term to expire 2/17/2017

Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel.  
Nays: None. The motion carried.

At this time Steve Marvel presented a proposal on a parking lot lease. Mr. Marvel read the following letters into the record:

January 22, 2014  
Hastings City Council Meeting  
of January 27, 2014

Mr. Marvel stated he called up the City Administrator’s office last week to inquire about an idea I had presented in letter form to Randy Chick of the Community Redevelopment Authority back in June of the year 2013, and later discussed at a CRA meeting, also several months ago. I talked briefly with the City Administrator about my ideas for the lot. He said that since it is a downtown parking lot, those matters are handled by the CRA. I asked him if I could read my letters to the CRA into the record at the next City Council meeting. He said I could do so if I wished to.

I discovered on the local government website that the Community Redevelopment Authority was established in 1987, and that they have a five member board appointed by the Mayor and City Council. Since the CRA is appointed by the elected Mayor and elected City Council, then the authority that they have is derived from their appointments by those elected officials. Having

said that I would like to read a couple of letters and an additional item into the record:

June 14, 2013

Community Redevelopment Authority

I had talked to Randy Chick a couple of weeks ago concerning the parking lot on 1<sup>st</sup> Street and Lincoln Avenue. Since the CRA had recently purchase the west portion of the lot and I own the east portion of the lot, I inquired about the possibility of buying the CRA's portion of the lot.

Randy said that he thought that the CRA would probably be more interested in buying my portion of the lot than selling their portion. I called Randy back a couple of days later and ran an idea by him, where the CRA would rent the lot from me, as part of an agreement where I would purchase the CRA's portion of the lot for \$11,000.00 and make a large capital expenditure, theoretically \$60,000.00, to repair and upgrade the lot.

As part of the idea, I would put the \$60,000.00 capital expenditure with the \$11,000.00 purchase and apply a 2.5% rate to determine an initial rent payment of \$1,775.00, plus any property tax increase, with that amount increasing at a rate of 3.00% per year to determine the annual rent payments. The lease term would be 20 years. He said he would e-mail the CRA board members for feedback.

I called Randy back on 6/13/2013, and he returned my call on 6/14/2013. He said that there didn't seem to be an interest in my idea for the sale of the CRA's portion and the lease of the lot post sale, but I would be welcome to come to the meeting on 6/18/2012 to state my case, as the parking lot is on the CRA agenda for that meeting.

I thought I would write down another idea for the adjacent parking lot, as well as a variation of the previously stated idea so that you have a chance to take a look at the ideas before the meeting on Tuesday.

The second idea would be for the CRA to rent my portion of the parking lot on 1<sup>st</sup> and Lincoln for \$670.00 per year plus the increase in property tax on the property, with the sum of those items increasing 3.00% per year to determine the annual rent. The lease term would be 20 years. The CRA would as terms of the lease commit to making the necessary repairs and leave the lot in good repair at end of the lease term. I spoke with the City Planner a couple of years ago and he assured me that the property will continue to have a waiver from any parking requirements; notwithstanding that opinion, I would want a provision in the lease to allow for termination of the lease if the parking requirements for the area go out of waiver status. I would also want the lease to state that the parking lot would be used for public parking.

1-27-2014

As a variation of the first idea for the parking lot, the previous stated 2.5% figure to determine the rent on the 'base' adjusted for the initial increase in property tax, instead would be 2.5% of the 'base' with subsequent increases in property tax added to that amount to determine annual rent, once again the sum of those items increasing 3.00% per year. The lease term would be 20 years.

That summarizes the ideas I came up with for the parking lots on 1<sup>st</sup> Street and Lincoln Avenue.

Steve Marvel

January 18, 2014

Community Redevelopment Authority

I had talked with Randy Chick a couple of times since my letter of June 14, 2013. He said that the CRA was still in the mode that they wanted to buy my portion of the parking lot on 1<sup>st</sup> Street and Lincoln Avenue, rather than begin to look into working towards an agreement where I would purchase the CRA's portion of the parking lot on 1<sup>st</sup> Street and Lincoln Avenue, take a large capital expenditure to improve the lot, and the CRA or City of Hastings would rent the lot from me on a long term basis.

I am planning to attend the CRA meeting on January 22, 2014, and I was hoping to get a little more information to determine who and why there are objections to my idea for the lot.

Randy Chick has said the terms within my idea seem to be within reason as far as he was concerned and I was hoping I could poll the board members to determine whether the terms of my idea concerning the parking lot was a sticking point for them. I also wanted to determine if there were other objections to my ideas, and what they were.

I assume that the board is interested in encouraging private investment in the district, and that they are interested in increasing, or at least not decreasing the number and quality of parking places in the district. I'd like to verify that is so.

I was also wanting to find out whether there was a mediation or arbitration procedure that was available if we remained at an impasse.

Steve Marvel

January 20, 2014

Community Redevelopment Authority

I wanted to add an example to my letter to clarify my idea a little. The example is as follows:

\$71,000 base

Times

2.0%

Equals

\$1420.00 per year, or \$1420.00 divided by 4 parking places equaling \$32.27 per place per year or \$2.59 per place per month for year 1.

\$2,490.00 per year, or \$2490.00 divided by 44 parking places equaling \$56.69 per place per year or \$4.72 per place per month for year 20.

Steve Marvel

Mr. Marvel stated Randy Chick called him at 5:00 P.M. today. That first meeting that I spoke that he prefaced the second letter to was postponed and that was postponed until tomorrow at 12:00 Noon. I did ask him if that second letter had been distributed to the CRA members and it had been e-mailed to them and wondered if he had received any feedback and he said there was feedback from one and it was negative as well.

The Mayor stated we will see what happens at the meeting tomorrow, this obviously isn't a voting situation for us, but it is informational.

Moved by Odom, seconded by Hoops there being no further business to come before the Council, the meeting adjourn 7:38 P.M. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

APPROVED:

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Mayor

ATTEST:

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City Clerk

1-27-2014

( S E A L )