

COUNCIL CHAMBERS, MONDAY, AUGUST 25, 2014 AT 7:00 P.M.

The meeting was called to order in regular session by Mayor Powers with the following members present: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. Absent: Peterson, Krings.

Moved by Skutnik, seconded by Odom 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 August 22, 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, Odom, Niemeyer, Hoops, Skutnik, Goebel. Nays: None. Absent: Peterson, Krings. The motion carried.

**CITIZEN COMMUNICATIONS:** Greg Sinner of Doniphan, Nebraska and owner of Sinner Rentals & Storage, addressed the Council in regard to his request for an amendment to an existing Conditional Use Permit to allow the expansion of self-storage units at 218 North Bellevue Avenue which was tabled at the last Council Meeting. Mr. Sinner stated he wanted to address three items that came up at the last meeting and things that have happened since the last meeting. First of all, one thing he wanted to clarify is that the electric meter on Mr. Shade's building will have to be raised and that shows up in a letter that was forwarded to the Mayor and Council. Secondly, he and Councilman Goebel checked with Hastings Utilities and there are no underground utilities other than what is located in the city right-of-way. The final item is that he did speak with Mr. Snow after the meeting and he wanted something more formal than just a verbal agreement with him. Mr. Sinner stated he met with Mr. Snow's attorney and we did hammer out an agreement and that agreement also was forwarded to the Mayor and Council.

**REPORTS OF LIAISONS:** Councilman Goebel reported on the August 14<sup>th</sup> Board of Public Works Meeting. The Board will be looking into their bidding policies, checking to see how well they correlate with what we use on this end. Another item coming up at the meeting on August 18<sup>th</sup> is the lease on the Chevrolet Volt electric vehicle. They will be considering what options they have.

Councilman Goebel stated the first Mayor's Youth Council meeting will be tonight, August 25<sup>th</sup> after the Council Meeting.

Councilman Goebel stated the 5<sup>th</sup> Annual Mellon Roast Car Show was this past weekend and it was extremely well attended; there were about 250 cars on display. The Parks Department did a great job in getting Brickyard Park ready for the event.

**MAYOR'S COMMUNICATIONS:** None.

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

- 1(a) Minutes of the Council Meeting of August 11, 2014.
- 2(a) Application of Murphy's Wagon Wheel, Inc. for a Special Designated License at the Hastings Museum on September 19, 2014.
- 2(b) Application of Murphy's Wagon Wheel, Inc. for a Special Designated License at the Masonic Center on December 13, 2014.
- 2(c) Request of Hastings Lodge No. 50 to utilize city streets for the Annual Veterans Recognition Parade to be held at 10:00 A.M. on November 1, 2014.
- 2(d) Request of South Central Christian Home Educators Association to utilize city streets for Super Hero Sprint 5K/1 Mile Run/Walk fund-raiser on October 4, 2014 (October 11, 2014 rain date).
- 2(e) Request of the Hastings Police Department to close Osborne Drive East from 39<sup>th</sup> Street to 42<sup>nd</sup> Street from Friday, September 19, 2014 at 8:00 A.M. to Saturday, September 20, 2014 at 10:00 A.M. for the World's Largest Truck Convoy for Special Olympics.
- 4(a) Payroll for the period ending August 3, 2014, paid September 5, 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).

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

Moved by Niemeyer, seconded by Hoops that the request of Greg Sinner, Sinner Rentals & Storage, for an amendment to an existing Conditional Use Permit to allow the expansion of self-storage units at 218 North Bellevue, subject to conditions, be brought from the table. Roll Call: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. Nays: None. Absent: Peterson, Krings. The motion carried.

Moved by Niemeyer, seconded by Harrington that the request of Greg Sinner, Sinner Rentals & Storage, for an amendment to an existing Conditional Use Permit to allow the expansion of self-storage units at 218 North Bellevue, subject to the following conditions be approved:

- 1. All exterior lighting shall be of cut-off type to prevent off-site glare.

2. All lighting shall meet the requirements of Tables 305-10 and 305-11 of Section 34-305.5 for heights and shielding, and from 34-305.5.c regarding general standards for exterior lighting.
3. All storage shall be kept within an enclosed building.
4. No long term parking outside including but not limited to RV's, vehicles, trailers, campers, boats or watercraft.
5. Building setback shall be the same as in the C-3 District.
6. Two parking spaces shall be provided, plus one additional space for each employee. Internal drives and parking shall comply with Section 34-308 of this Chapter for paving requirements (this standard exists currently).
7. Building heights shall be limited to one story which does not exceed fourteen (14) feet at the eaves.
8. Storage buildings shall be separated a minimum of thirty (30) feet from one another within self service storage facilities. Storage bays within a single building shall not be interconnected by interior doors or other interior means providing access from one storage bay to another. The dimensions of any storage bay shall not exceed twenty-two (22) feet in the narrowest dimension of thirty-six (36) feet in the widest dimension. The applicant will work with the City Building Inspector to meet requirements for firewall separation on both new buildings being constructed.
9. A sign shall be limited to one ground pole sign at the entrance to the premises. Not more than thirty-two (32) square feet in area shall be permitted with a maximum height of ten (10) feet or in exchanges, existing wall signage can remain as is.
10. Commercial Activity: It shall be unlawful for any owners, operator or lessee of any self service storage facility or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever, other than leasing of the storage units, or to permit same to occur upon any area designated as a self service storage facility. Violation of this Section shall be subject to the provisions of Section 34-804 of the Hastings City Code. Any violation may be cause for revocation of the Conditional Use Permit by the City Council.
11. Repair, reconditioning and fabrication are prohibited on site. This provision

shall be posted and be included in the tenant lease agreement.

12. An approved plan shall be valid for a period of twenty-four (24) months following the date of approval by the City Council. If construction has not been started within said twenty-four (24) month period, the plan shall be null and void unless the time for start of construction has been extended by the City Council.
13. Landscaping, consisting of one tree minimum and sod/grass shall be provided along the western side of the Storage Facility Building excepting a concrete driveway access off of Bellevue Avenue.

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

City Administrator Joe Patterson stated the Council approved several months ago an Interlocal Agreement with the cities of Papillion, LaVista Holdrege and Hastings to hire an insurance broker. At the meeting tonight are representatives (Rita Ramirez, Assistant City Administrator at LaVista, Chris Myers, Assistant City Administrator at Papillion and Bob Rager, City Administrator at Holdrege) of the other cities. We secured the services of James Charlesworth of Charlesworth & Associates to help with the selection of a broker. Mr. Charlesworth will be giving a presentation on insurance coverage at this meeting.

James Charlesworth of Charlesworth & Associates stated on August 26, 2013, the Council approved the termination from the League Association of Risk Management program effective October 1, 2014. On March 10, 2014, the Interlocal Agreement between the cities of Hastings, Holdrege, LaVista and Papillion was approved to hire an insurance broker to obtain necessary insurance coverage for all parties collectively or individually. On May 12, 2014 the selection of Arthur J. Gallagher was made. For that marketing of the broker, we did have public notices, we had 13 responders to the public notice, we had 7 quotes and we interviewed 4 brokers and finally the selection was made to choose Arthur J. Gallagher because of their large size, their great knowledge of municipal insurance and they are the fourth largest broker in the world. Arthur J. Gallagher approached approximately 13 different markets. They did receive partial quotes from a few markets, but The Travelers's Insurance was the key market that really showed an interest in this account. They came out, visited and interviewed the City Administrator, site visits were done and they then ended up providing the total quote which is before the Council this evening. The Travelers Insurance Company has the largest rating you can get and that means they have over two billion dollars in adjusted policyholder surplus. Their fully insured plan provides the ability for us to analyze our loss history and create a program that is best suited for this City. In the packet provided, there is a lot of detail, but the summary provided is very clear and our recommendation, along with Arthur J. Gallagher, is that the City give consideration in accepting The Travelers's property, liability and worker compensation insurance program for an annual

premium of \$710,821.00.

The City Administrator stated we have been going through this issue of deciding whether to stay in the pool or not for a long time. The other three cities have been dealing with similar issues and so the decision was made to form this consortium of cities and to hire Mr. Charlesworth to help us through the process. The other three cities will be looking at the same action next Tuesday. LARM has served us in the past, but there is an opportunity for significant savings in proposing to the Council that we award a bid for insurance to The Travelers.

Councilman Goebel stated he noticed that The Travelers' liability limits under General Liability Each Occurrence is lower than LARM, but then we do have an umbrella coverage for The Travelers and questioned if that made up the difference in liability limits.

Mr. Charlesworth stated yes it does, it is a little bit different structure. Instead of having different silos of \$5,000,000, we have \$1,000,000 with a \$4,000,00 umbrella over all of them, it was designed that way and it is fairly common for traditional insurance to have a \$1,000,000 primary and then staff whatever umbrella you feel necessary.

Moved by Odom, seconded by Niemeyer that the Mayor and Council award bid for insurance coverage for fiscal year 2014-2015 to The Travelers' Insurance Company. Roll Call: Ayes: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. Nays: None. Absent: Peterson, Krings. The motion carried.

Moved by Niemeyer, seconded by Skutnik that the Mayor and Council approve the bid of Great Western Bank for a Letter of Credit and that the Mayor be authorized to execute the documents necessary to obtain and maintain a Letter of Credit to satisfy the Performance Guarantee obligations related to the Hastings Groundwater Contamination Site. Roll Call: Ayes: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. Nays: None. Absent: Peterson, Krings. The motion carried.

Moved by Harrington, seconded by Goebel that the Mayor and Council award bid to Werner Construction, Inc. of Hastings, Nebraska, for Project No. 13-CR-108, "D" Street-Pine to Elm Avenues in the amount of \$432,467.48.

Councilman Niemeyer stated he wanted to make a point and expressed the importance of having multiple bids. In this project, as well as the next four that we are voting on tonight, one of the projects has just one bidder and that one bidder is considerably higher than our engineer's estimate. In the other four where we have multiple bidders, almost all of them are very very close to the engineer's estimates and some of them are below the engineer's estimate. Councilman Niemeyer stated he is not saying that we need to do anything differently than what we are doing tonight, but in the future it is really beneficial for the City to have multiple bids on a project. Councilman Niemeyer stated he knows that we declined a bid earlier this year because

it was extremely higher than our engineer's estimate. Councilman Niemeyer stated it favors the City if we have multiple bids.

The Mayor asked the City Attorney if there would be anything special we had to do to enact and enforce an ordinance like that.

City Attorney Dave Ptak stated certainly that is something we could develop and that is something that we would want to talk with the City Engineer about and get his input as well.

The Mayor asked the City Attorney to look at that and get back with him or Councilman Niemeyer.

Councilman Goebel asked the City Engineer if "D" Street-Pine to Elm Avenues includes paving, storm sewer, sidewalk and street lights.

City Engineer Dave Wacker stated it is mainly paving between the intersections and some storm sewer work.

Councilman Goebel questioned if there would be curb and gutter.

The City Engineer stated yes it would have curb and gutter. The previous project was built approximately 25 years ago through block grant funds, a storm sewer was put in as well as the intersections. This project will finalize what was started approximately 25 years ago and connect the gaps in between the intersections, curb and gutter and make some adjustments to the storm sewer; we will add some inlets and raise some inlets that currently have been buried and not in use.

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

#### **RESOLUTION NO. 2014-26**

##### **RESOLUTION ACCEPTING THE BID FOR THE CONSTRUCTION OF IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2013-1, 2013-2 2013-3 IN THE CITY OF HASTINGS, NEBRASKA**

BE IT RESOLVED that the Mayor and City Council of the City of Hastings, Nebraska, find and declare that the bid for the furnishing of labor, tools, materials and equipment required to construct improvements and such other work as may be incidental thereto in Street Improvement District Nos. 2013-1, 2013-2 and 2013-3 in the City of Hastings, Nebraska, as submitted by the following contractor is the lowest and best bid received as follows:

<u>Name and Address of Bidder</u>	<u>Amount of Bid</u>
Gehring Construction & Read Mix., Co., Inc. 5424 West Meadow Drive Columbus, NE 68602	
P.D. 2013-1 Merle Avenue	\$ 65,391.42
P.D. 2013-2 Nalan/Meander/W. 14 <sup>th</sup>	\$126,037.00
P.D. 2013-3 Wendell/W. 33 <sup>rd</sup>	<u>\$ 84,906.60</u>
TOTAL BID	\$276,335.02

AND BE IT FURTHER RESOLVED, that the bid as above set forth, filed with the City Clerk in accordance with the terms of published notice calling for the proposals for furnishing of labor, tools, materials and equipment required to construct said improvements and such other work as may be incidental thereto in Street Improvement District Nos. 2013-1, 2013-2 and 2013-3 in the City of Hastings, Nebraska, be and the same is hereby accepted, and the Mayor and City Clerk are authorized and instructed to execute the necessary construction contracts and agreements on behalf of the City.

Moved by Skutnik, seconded by Niemeyer that Resolution 2014-26 be passed and approved.  
Roll Call: Ayes: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. Nays: None.  
Absent: Peterson, Krings. The motion carried.

**ORDINANCE NO. 4402**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO ESTABLISH THE COMPENSATION TO BE PAID TO THE MEMBERS OF THE HASTINGS CITY COUNCIL; TO REPEAL ANY ORDINANCES OR SECTIONS OF CITY CODE IN CONFLICT WITH THIS ORDINANCE; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM

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

Councilman Goebel asked the City Administrator to inform the Council about the informal comparability study.

The City Administrator stated we have looked at the numbers a few times and if you take out the cities that are City Manager forms of government which really isn't an appropriate comparison

because the Mayor is elected from within the Council, we found that we are a little bit short on the Mayor's salary and a little more short on the Council's salary. We rounded it up just a few dollars, maybe \$20 or \$30, to get to the \$5,000 and \$10,000. You can't give yourself a raise in the term you are in so that is why they are sequenced in. Those that are still on the Council after the next election would see that increase. If the ordinance giving the Mayor a raise is approved, it would go into effect in two years. We believe this is the right thing to do and would put you right in the middle of where communities of our size are.

Councilman Niemeyer moved that the statutory rule requiring reading on three different days be suspended; Councilmember Skutnik seconded the motion to suspend the rules and upon roll call vote the following Councilmen voted YEA: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. NAY: None. ABSENT: Peterson, Krings. 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. 4402 be passed and adopted?" Upon roll call vote the following Councilmen voted YEA: Harrington, Odom, Hoops, Skutnik, Goebel. NAY: Niemeyer. ABSENT: Peterson, Krings. 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 here signature thereto. Effective date of ordinance is December 8, 2014.

### **ORDINANCE NO. 4403**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO ESTABLISH THE COMPENSATION TO BE PAID TO THE MAYOR OF THE CITY OF HASTINGS; TO REPEAL ANY ORDINANCES OR SECTIONS OF CITY CODE IN CONFLICT WITH THIS ORDINANCE; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM

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

Councilman Niemeyer moved that the statutory rule requiring reading on three different days be suspended; Councilmember Skutnik seconded the motion to suspend the rules and upon roll call vote the following Councilmen voted YEA: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. NAY: None. ABSENT: Peterson, Krings. 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. 4403 be passed and adopted?” Upon roll call vote the following Councilmen voted YEA: Harrington, Odom, Hoops, Skutnik, Goebel. NAY: Niemeyer. ABSENT: Peterson, Krings. 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 December 12, 2016.

The Mayor stated there was an article unfairly chastising a number of police forces in Nebraska cities (Hastings, Grand Island, Kearney) on the unwanted use of tasers, which was totally offensive he thought and he kind of said so to the person who ran it. The Mayor stated we have had how many thousands and thousand and thousands of calls over the last seven or eight years of their supposed study that the ACLU ran with in the Omaha World Herald. The Mayor asked the Police Chief how many taser uses have we had over that time.

The Police Chief stated in the last year and one half we had ten incidents.

The Mayor stated to Monday morning quarterback or backseat drive was totally unfair. The people writing these articles ought to be with our police force at 2:00 A.M. when someone is spitting, punching or trying to kill them. The alternative is gun shots and we aren't going to do that. The Mayor stated he thought it was totally unfair and seemed like a publicity stunt on possibly a new person at the ACLU. Our police force does not use that for fun, they use it as a last ditch effort tool. The Mayor stated he is proud of our force and he will stand by them at any time in their judicial use. We have a great police force and they are very fair and they are what a police force should be, they are there if we need them, but they are in the background not oppressing anyone.

Moved by Skutnik, seconded Niemeyer there being no further business to come before the Council, the meeting adjourn at 7:25 P.M. Roll Call: Ayes: Harrington, Odom, Niemeyer, Hoops, Skutnik, Goebel. Nays: None. Absent: Peterson, Krings. The motion carried.

APPROVED:

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Mayor

ATTEST:

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City Clerk

8-25-2014

(SEAL)