

COUNCIL CHAMBERS, MONDAY, NOVEMBER 10, 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 Niemeyer, seconded by Harrington that the Open Meetings Act is posted on the south-east wall of the City Council Chambers and that prior to this meeting a notice was placed in the Hastings Tribune on November 7, 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 October 30, 2014 Board of Public Works Meeting. There has been some major work done on the burners in the WEC II Power Plant, this was for a scheduled outage; it seemed the design of the burners was pretty much completely changed to avoid some reoccurrence of problems that they have had in the past with those. The work was scheduled to be completed today and WEC II back in normal operation. Councilman Goebel stated they are working on a contract for removal and reuse of the dry ash produced at both WEC I and WEC II. This material is useable and very helpful in various construction processes and is being basically marketed, it will be removed by some contractor. The Board held their Budget Meetings on November 5<sup>th</sup> and 6<sup>th</sup> and there will be a joint meeting with the Board of Public Works and the Council at the Council Worksession on November 18, 2014 at the Hastings Utilities Board Room at 5:00 P.M. to discuss the 2015 Hastings Utilities Budget. Councilman Goebel stated he supposes that most residents are interested in rates and what they are proposing for 2015 is no change in electric or gas rates, recommending a 12% increase in water rates due to various challenges the Water Department is meeting with nitrates and uranium levels that are increasing, in regard to Sanitary Sewer Rates, the Council approved a three year scale of 8% increases and that will go effect and there will be no change in the street light assessment. Councilman Goebel stated there is about 5.7 million dollars in Rate Stabilization Funds that is scheduled to be used to balance the budget, particularly in the areas of the Sanitary Sewer System and Water.

The Mayor's Youth Council will be meeting on November 18, 2014 at 7:00 P.M. in the City Council Chambers.

**CITIZEN COMMUNICATIONS:** None.

**MAYOR'S COMMUNICATIONS:** The Mayor read a proclamation proclaiming November as Family Caregiver's Month. Jinx Hackler accepted the proclamation on behalf of the South Central Caregiver Town Hall Coalition. The South Central Caregiver Town Hall Coalition

thanked Mayor Powers and all Councilmembers for joining with them to celebrate State Family Caregiver Awareness Month. Ms. Hackle stated "The Blessings of Caregiving" Thanksgiving Lunch & Learn will be on November 19, 2014 at the Adams County Veterans Service Office. If you are interested in attending, please call Kim Wilder at the Veterans Office or Jinx Hackler at Hastings Respite Care.

The Mayor stated we have a wonderful potential project going across the street in the City Parking Lot and it would be a shame for our town to fulfill rumors that have gone on for years about certain people controlling businesses in town. This project will add hundreds and hundreds of people to our downtown and it needs to happen. Some of our community members needs to step back on self interest and work more on city interest. This project will do wonderful things for our town and we cannot let this thing go backwards because of a couple of individuals.

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

- 1(a) Minutes of the Council Meeting of October 27, 2014.
- 1(b) Minutes of the Council Worksession of October 21, 2014.
- 2(a) Application of Midtowne Mart LLC for a Special Designated License at the Hastings Museum-East Gallery on December 13, 2014.
- 2(b) Application of Murphy's Wagon Wheel, Inc. for a Special Designated License at the Hastings Museum on January 10, 2015.
- 4(a) Payroll for the period ending November 8, 2014, paid November 14, 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).
- 4(c) Authorizing the City Clerk to issue checks against the various funds for payment of pre-paid claims. (Pre-paid claims included in list of claims attached).
- 4(d) Payment to Werner Construction Company in the amount of \$23,680.71 for paving in Community Development Block Grant Project 13-CR-108 and authorizing the Mayor to sign draw down.
- 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.

At this time a public hearing was held on the request of the City of Hastings Development Services Department to amend Section 34-315-01 of the City Code regarding limited agriculture both within and outside the City limits (allowing chickens inside the City limits).

Dave Berens of 680 West Oakridge appeared to speak in favor of allowing chickens inside the City limits. Mr. Berens stated he runs the Rural Ranchers 4-H program down at Lincoln School and has been doing that for 25 years. When this issue came up, it was interesting to him to see how our community reacts to different kinds of items. Mr. Berens stated he believes it is a great item, it is based on what our forefathers did and what we need to teach our children. In working with kids for as long as he has worked with kids, one of the things he found out is that if you never give them responsibility, they never take responsibility. In saying that, Mr. Berens stated he knows there are probably individuals in our community that are probably going to have those chickens without children, but for those that have them with children, what a great way to teach some responsibility. Mr. Berens stated he is very much in favor of the ordinance.

Brady Rhodes of 1000 West 9<sup>th</sup> Street appeared to speak in favor of allowing chickens inside the City limits. Mr. Rhodes stated he and his family moved to Hastings recently from Denver and Denver went through a similar process that Hastings is going through in order to come up and have a conversation about this idea and ultimately passed an ordinance to allow chickens, and they actually included pygmy goats. Mr. Rhodes stated Denver approved and whole-heartedly supported their ordinance. It did so many things, it brought a conversation to the City that wasn't there before. We had conversations about where our food comes from, we had conversations about education among our families and among our neighbors about how to take care of our bodies and our health and being able to have some responsibility and some say in the matter. One of the things that people were really concerned about in Denver was the neighbor relations, if there was somebody that wanted chickens and somebody who didn't want chickens. They did a lot of great work to promote conversations among neighbors and that really worked. Mr. Rhodes stated that in that sense, it promoted a sense of collaboration and communication among neighbors that might not have happened before, people actually had to get to know each other to have those conversations. Lastly, Mr. Rhodes stated, was that he and his family had a great time just being responsible for the chickens; having his sons take care of the chickens and have some responsibility on the matter was also great for his family as well.

Moses Rhodes of 1000 West 9<sup>th</sup> Street appeared to speak in favor of allowing chickens in the City limits. Moses stated he hopes the Council will allow chickens to live in the City because they are not noisy, they are educational and we don't have to pay for our eggs. They are fun to be with and they teach him responsibility.

John Peterson of 804 South Colorado appeared to speak in favor of allowing chickens in the City limits. Mr. Peterson stated allowing chickens inside the City limits is a great thing and Council-member Hoops should be commended for getting this off the ground and onto the table this evening. Mr. Peterson stated he agrees with what Mr. Berens and Mr. Rhodes said,

responsibility and education are wonderful for kids. Mr. Peterson stated this is a great thing and he urges the Council to approve the ordinance.

Roquel Davis of 1507 North Kansas appeared to speak in favor of allowing chickens inside the City limits. Ms. Davis stated chickens provide fresh eggs and it has been proven that eggs have seven times the beta keratene, twice the Vitamin A and Omega Three, half of the cholesterol, a quarter of the saturated fats and two times the Vitamin E than what you get from a grocery store. Ms. Davis stated the waste disposal that you would throw in the trash could be fed to your chickens, obviously fertilizer for your garden, it would help with insect control which would equal less pesticides which is good for our water and nitrates which you are already concerned about. Ms. Davis stated Woodward's Disposal will pick up chicken waste we put in our green totes.

Harvey Freetly of 226 University appeared to speak in favor of allowing chickens in the City limits. Mr. Freetly stated he lived in Hastings more than 24 years ago, but he has moved from a City that had an ordinance that did allow chickens and he kept chickens. Mr. Freetly stated he was somewhat surprised when he moved to Hastings all those years ago and found out that chickens weren't allowed in the City, particularly moving to what he considers a community that has an emphasis in agriculture and understanding agriculture. Mr. Freetly stated he understands the concerns about keeping livestock and humans separate, but the educational components are great. We have fewer and fewer people involved with agriculture, particularly animal agriculture and understanding where our food comes from in this country and that percentage is going down constantly. This is an opportunity to allow people to understand where their food comes from, that it does not have to be purchased from a grocery store. Mr. Freetly stated this provides a really good opportunity to help some families that live in the City to get reconnected with agriculture.

Sara Meeske of 1000 West 9<sup>th</sup> Street appeared to speak in favor of allowing chickens inside the City limits. Ms. Meeske stated she and her husband had chickens in Denver and she was pleasantly surprised how the chickens became part of their family, they became a way of life for them. Ms. Meeske stated it was a good opportunity for them to be very mindful of where our food comes from, along with their garden; it had a lot of health benefits for her family and a lot of educational benefits for her boys.

Lyle Wilder of Lot 10 Durwood Lane appeared to speak in opposition to allowing chickens in the City limits. Mr. Wilder stated he grew up in this City when they had chickens, he had chickens on all sides of him and he knows what it is with chickens. The chickens will be just like dogs and cats, they will get loose and if they get loose near his house he will have chicken dinner.

If you want to have chickens, get out in the country with the animals, that is where they belong, out in the country; you don't need them in the City limits. If chickens can be allowed in the City

limits, why can't he have a hog in town.

Cindy Strasheim of 1923 West 9<sup>th</sup> Street appeared to speak in opposition to allowing chickens in the City limits. Ms. Strasheim stated she objects to chickens in the back yard. Chickens spend a good portion of the day pecking, scratching and quietly clucking. She grew up gathering eggs and once raised a chicken in the back yard in St. Joseph, Missouri where we talked about if something went wrong, you said "chicken feathers". Ms. Strasheim stated neither experience was a pleasant memory for her. Chickens are a 24/7 responsibility and she doesn't want to share that responsibility with her neighbor. Ms. Strasheim stated she is asthmatic and she is allergic to chicken feathers. You cannot stop molting chickens from releasing feathers in the air, air pollution for people with allergies is tough enough, but this is one more controllable allergen, keep chickens out of the City. Chickens have lice and mites that can be a nuisance in the chicken coop and for anything that the critters can live on. Ms. Strasheim stated chickens can help convert biomass waste such as with kitchen scraps, leaves and grass clippings which can be deposited in the landfill, but at what cost to air and soil pollution. Each full grown chicken can produce one quarter pound of waste in a day and everything in moderation is a great rule for chicken poop. The soil is contaminated by large amounts of chicken poop which is high in nitrogen, phosferous potassium, intestinal bacteria and salt. Used sparingly, chicken poop is a good organic fertilizer and she doesn't want to breathe her neighbor's natural fertilizer, it takes a long time for that to break down. Every time it comes in contact with water, you have the refreshed odor to deal with. Ms. Strasheim stated she has tried to makes friends with the occasional possum and raccoon who have chosen to live in her back yard, but she doesn't look foward to having more of them, especially an increase in skunks and any other crawling living thing in her yard due to the chickens next door. Ms. Strasheim stated her dog is only 12 pounds and barks at many of the big dogs that go by; is sure there are many times that her neighbors wished that her dog didn't bark and questioned if her dog is going to be in trouble for barking at the neighbor's chickens. Mrs. Strasheim stated if you want to hear her childhood trauma caused by having a neighbor wringing her chicken's neck after her dog died of a heart attack chasing him up and down the wire fence, ask her tomorrow because she is too traumatized at the thought of chickens next door to talk about it tonight.

The Mayor entered the following e-mail from Twila Bankson of 985 South Osage, Juniata, Nebraska entered into the record:

My name is Twila Bankson and I am a long time 4-H leader of one of your local 4-H Clubs, Rural Ranchers. At our 4-H club we teach the care and responsibility of taking care of livestock, this includes poultry. I am 100% in support of amending the ordinance to allow pullets or hens to be kept in the City limits in residential homes. We have youth that learn the importance of how to care for their poultry projects and allowing them to house them at their homes would be beneficial in this education. If anyone has questions on the care of poultry please feel free to contact me as I am a leader in this field.

The Mayor entered the following e-mail from Cindi Salazar of 332 Walden Circole in Hastings, Nebraska entered into the record:

A little about myself, I'm a single mother of two, currently my daughter is a sophomore at Concordia Univerty (elementary art teacher). My son is a senior at Hastings Senior High who will be attending CCC next fall (Media Art Assoc.). My children have been a part of Rural Ranchers 4-H Group for 6+ years. I can honestly say the reason my children are doing as well as they are, is a direct response to the values they learned from being a part of the Adams County 4-H program. My son has been referred to as the chicken whisperer by others in his group (2 years Reserve Champion). In my opinion losing this program due to this ordinance would be detrimental to this community. This 4-H program is a place for children to experience something they would not otherwise be able to, what it means to come from an agriculture community. Please before you vote, look into how this ordinance will affect our 4-Her's.

The City Clerk advised that her office had received no written objections.

There being no other persons wishing to speak, the Mayor declared the hearing closed.

**ORDINANCE NO. 4415**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO AMEND SECTION 34-305.01 OF THE OFFICIAL CITY CODE DEALING WITH LIMITED AGRICULTURE INSIDE AND OUTSIDE THE CORPORATE LIMITS OF THE CITY OF HASTINGS; TO AMEND SECTION 10-102 OF THE OFFICIAL CITY CODE DEALING WITH THE KEEPING OF ANIMALS WITHIN THE CITY OF HASTINGS; TO AMEND SECTION 10-105 OF THE OFFICIAL CITY CODE DEALING WITH ANIMAL RUNNING AT LARGE; TO REPEAL ANY ORDINANCES OR CITY CODE PROVISIONS INCONSISTENT HERewith; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT (Allowing chickens within the limits of the City).

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

Police Chief Kortum stated during some of the discussions, we were concerned with an incident where there was a dog bite. We didn't want to treat that as an investigative dog bite, therefore, for the purpose of this ordinance chickens are not considered a domestic animal. There would not be impounding of a dog for killing a chicken.

Councilman Niemeyer stated we are transferring the enforcement from the Development Services Department to the Police Department and questioned what enforcement tools does the

Police Department have on this ordinance.

The Police Chief stated we are not prepared to go and confiscate chickens if they have eight and not six or don't have the proper coop, but we would enforce it with citations as a daily violation. The Police Chief stated he and the City Attorney have had this discussion and the City Attorney would treat it as daily violation. The ordinance is structured where people would be way ahead by following the ordinance instead of violating it because we do have a lot of tools at our disposal if they don't.

Councilman Niemeyer stated the Chief just indicated we have a lot of tools, what are they.

The Police Chief stated prosecution for one, it is a daily violation.

Councilman Niemeyer questioned what does that mean to a person, what does a daily violation mean, does it mean a fine.

The Police Chief stated yes it would be a fine.

The Mayor questioned if we have developed a fine structure for that.

Dave Ptak, City Attorney, stated it would meet the general penalties section of the City Code which would be a fine of up \$100.00 per day.

Councilman Niemeyer stated there is no minimum lot size for chickens, six chickens could be confined on any lot.

The Police Chief stated yes, on any single dwelling lot.

Councilman Goebel stated someone mentioned chickens getting loose and questioned how the Police Department intended to handle that.

The Police Chief stated he is not sure that the Police Department is equipped to catch chickens, some co-workers stated it is very difficult to catch a chicken.

Councilmember Hoops thanked the staff and Council for the time you have allowed to take to discuss this and staff's time to craft the freedoms and regulations in the ordinance to really try and make it a good fit for Hastings. Councilmember Hoops stated we would not be alone in Nebraska, there are some movements for urban agriculture and food all across the country, but in Nebraska, she looked at cities that had populations of 10,000 and above and half of the cities do allow chickens and the vast majority of cities in the United States also allow chickens.

Councilman Harrington stated he received a lot of calls regarding chickens. When people

disagree, it is always a difficult call, but he does plan to support this ordinance. Many people here tonight have articulated some good points and we would be naive to think that in going forward that we won't have some problems. We may need to look at the ordinance again and we move forward, changes might have to be made.

Councilman Krings thanked the City for all the time they have spent working on this. Councilman Krings commended Councilmember Hoops on the work she has done, this is the right way to do things regardless of what happens. We started talking on this a long time ago, we have had a lot of discussion on it, Councilmember Hoops has done a lot of research and we have heard from both sides, those in favor and those in opposition.

Councilman Krings moved that the statutory rule requiring reading on three different days be suspended; Councilman Niemeyer 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. 4415 be passed and adopted?" Upon roll call vote the following Councilmen voted YEA: Harrington, Peterson, Odom, Krings, Hoops, Skutnik, Goebel. NAY: Niemeyer. 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 November 26, 2014.

The Mayor stated if there were no objections from the Council, he would like to consider Resolution Nos. 2014-40 and 2014-41 at this time.

There were no objections from the Council.

Phil Lorenzen of D. A. Davidson & Company stated Resolution No. 2014-40 is a resolution that would direct review of prior continued disclosure undertakings and related disclosures and authorizing the City to participant in the Securities & Exchange Commission's Municipalities Continuing Disclosure Cooperation Initiative. In 2005, guidelines were put in place by the Municipal Securities Rule Making Board which is our self policing agency for taxes and bonds in the investment business. That changed over the course of time and it went from a request coming to a City to go ahead and provide information to a requirement that cities file information to an electronic information process. The City has regularly made disclosures and the Securities & Exchange Commission in 2012 determined that nationwide municipalities in the industry of bond counsel and the industry of underwriters really were somewhat short of the mark in terms of that filing. There was an honest approach by cities and there is an honest

approach by everybody in the industry to go ahead and file things in a timely fashion. The determination of the SEC was to enter into sort of a police action and fine the investment dealer. The investment company has been fined for mis-statements that have been made. The City of Hastings has some infringements on that situation. We have two items that have occurred over the course of time, in 2011 bonds were issued and there was a finding that the City had inadvertently been late in a handful of filings and an event notice was filed with the electronic municipal media access point and we reported in the next circulars. Having made that report, bond counsel determined there was no need to go ahead and continue to make those reports. In the last few months, starting in May of this year, the SEC determined that the investment community should review five years of records and make a determination if there were some mis-statements made. Mr. Lorenzen stated we hired two outside providers to do that and through the investigation process and so forth, we identified two series of refunding bonds, Series 2013 Bonds which is \$1,000,000 and the 2013B Bond Issue which refunded prior issues which was \$1,500,000. The statement that was made in those two offering documents was that the City believes it was in complete compliance with the continuing disclosure requirement and that arguably a technical mis-statement in that we had disclosed previously a couple of minor failures. The SEC has given an opportunity to go ahead and correct the record. We have corrected the record by filing voluntarily those two issues that appear to have made an inadvertently mis-statement on those obligations. The first step was to identify that and we have identified that situation where we are now at the second step which would be for a community, if it wished, to choose self reporting. There is no penalty for self reporting, the City Attorney may have some comments on that, but the view of many is that it makes for the municipalities, and it is a majority of municipalities that have these minor infractions, and we have reported, and if we have reported and the City doesn't report arguably the SEC may step in try to do the investigative work. If you report them, they may still do some investigative reporting. The view is that the SEC would be inclined to review the materials that we filed and if you filed the same two issues and so forth then that may discontinue their investigation or it may launch additional investigations, but the general consensus is the City would probably be well advised by Council and others to go ahead and do the voluntary filing and we would assist in the process to make the filing. The last step would be that some additional filings would be made that cover a five year period to make sure that all the data is in place and the municipal reporting system is there.

The City Attorney stated the law change gave cities until the first of December to make their self disclosures and since D. A. Davidson disclosed our two issues to be consistent and to hopefully slam the door on the SEC's further investigation, it is prudent for us to report on the same two issues that the D. A. Davidson firm has already reported on. One of ours was 10 days late and the other one was a little more than that. The real purpose of the law that SEC does is to protect the investor, these go back to 2013 and no investor was harmed so there isn't really anything for the SEC to do except say "ok, they were late" and as a result of that, hopefully that is the end of this particular exercise that the SEC has decided was important. It is not what we would consider immaterial issues or inadvertent situations, but believes they really were looking to get

communities where actual fraud may be involved.

Mr. Lorenzen assured the Council that in this City and in the State, to his knowledge, there has never been any inappropriate distribution of funds from those issues. The most recent couple of examples were in Detroit, Michigan, Harrisburg, Pennsylvania and Henry, Illinois. Mr. Lorenzen stated they are trying to discipline and they are trying to put a lid on this. The whole key, as the City Attorney has said, is to protect the investor. Bond Counsel and Legal Counsel has been unable to get any direction from the SEC in what is a material and what is not a material event. They do have the right, if you file, to ultimately issue a cease and desist order that you would not in engage in errors in compliance and so forth in terms of the reporting. Mr. Lorenzen wanted the Council to be assured that Bond Counsel and Legal Counsel will be on top of this to avoid any complication in the future. Mr. Lorenzen stated his recommendation is that the Council act favorably on this resolution and allow it to move forward and go ahead and make the corrections; the deadline for the filing is December 1 at 5:00 P.M. eastern standard time.

**RESOLUTION NO. 2014-40.** . .Directing review of prior continuing disclosure undertakings and related disclosures and authorizing the City to participate in the Securities and Exchange Commission's Municipalities Continuing Disclosure Cooperation Initiative. (Resolution attached to and made a part of these minutes).

Moved by Niemeyer, seconded by Skutnik that Resolution No. 2014-40 be passed and approved. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Phil Lorenzen commented on Resolution No. 2014-41 at this time. It has been the goal of the current administration to go ahead and reduce the amount of debt of the City; you have paid it down very dramatically. You are in a position where interest rates have been achieved with refinancings. Those two 2013 issues dropped rates materially and saved hundreds of thousands of dollars for the City. Where you are now is that you are in a cash position, you have an ability from the collection of special assessments and so forth, which are appropriate to go ahead and use, to pay down bonds early; you have paid down bonds before. The issue at hand is Series 2009 Bond, it was issued in the principal amount of \$1,550,000, it has a call date that comes up on December 15<sup>th</sup> of this year. The average interest rate on the outstanding bonds is 4.19%, it is a little higher than that on the balance and the balance of the bonds is \$1,250,000. It runs through 2024, the total interest cost on that bond issue from day one was the sum of \$654,000 and the City has paid approximately \$275,000 in interest on that, you will save accordingly about \$400,000 in interest if you pay those bonds early. What you do sacrifice is the 4% plus interest income, but it is prudent to go ahead and pay that down. This resolution would allow the City to go ahead and file with Wells Fargo the call notice and the bonds would be paid off on the 15<sup>th</sup> day December. On the regular interest payment date, the City would pay \$1,250,000 principal and the regular interest payment of \$26,000. You would save by calling the bonds early about \$325,000.

**RESOLUTION NO. 2014-41.** . . Calling for redemption Various Purpose Bonds, Series 2009, original date of issue, April 15, 2009. (Resolution attached to and made a part of these minutes).

Moved by Niemeyer, seconded by Skutnik that Resolution No. 2014-41 be passed and approved. Roll Call: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

At this time a public hearing was held on the request of Marcy Kort to rezone property at 1123 North Baltimore Avenue from R-1 Urban Single Family to R-5 Urban Single Undersized Lot Residential District.

Marcy Kort of 2423 West 8<sup>th</sup> Street appeared to speak in favor of the rezoning of 1123 North Baltimore. Ms. Kort stated she found a house she wanted to buy and she put her house up for sale and she had someone interested in buying her home and they proceeded to do everything they needed to do. Ms. Kort stated the closing date was set for September 5<sup>th</sup> and a few days before that, the underwriter told her buyer that her house was non-conforming. It should have been 50 feet from the road, all the houses on the west side of Baltimore are 48 ½ feet, which is what hers is; all the houses on the east side of Baltimore are 52 feet from the road, therefore, the loan her buyer was trying to get wouldn't go through until we went to the Planning Commission to get the rezoning done.

No one appeared to speak in opposition.

The City Clerk advised that her office had received no written objection.

There being no other persons wishing to speak, the Mayor declared the hearing closed.

**ORDINANCE NO. 4413**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO AMEND THE OFFICIAL ZONING DISTRICT MAP OF THE CITY OF HASTINGS, NEBRASKA AS PROVIDED IN SECTION 34-105 OF THE OFFICIAL HASTINGS CITY CODE; TO REZONE THE PROPERTY DESCRIBED IN SECTION ONE OF THIS ORDINANCE FROM R-1, URBAN SINGLE FAMILY RESIDENTIAL TO R-5, URBAN SINGLE FAMILY UNDERSIZED LOT RESIDENTIAL, TO REPEAL ANY ORDINANCE IN CONFLICT HEREWITH; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT (Rezoning 1123 North Baltimore from R-1 Urban Single Family Residential to R-5 Urban Single Family Undersized Lot Residential)

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

The Mayor stated we have numerous of these kind of lots.

City Planner Rich Cartier, stated yes we do and we came up with this R-5 zoning to address those.

The Mayor stated all over town we have these and believes the City holds a few of these kinds of lots. The Mayor stated do we need to go further, do we have lots that are smaller than this.

Mr. Cartier stated this R-5 zoning lets you go down to a 45 foot width and when we passed that we felt that anything less than 45 probably should remain non-conforming.

Building Inspector Mark Evans stated some lots downtown are as narrow as 22 feet, in the residential zones, 40 feet was about the smallest ever platted. Going down below 45 feet gets really difficult to get a modern styled house on that lot.

Councilman Goebel stated he looked at the GIS map of this block and every lot on that block is either 48.5 or 49 feet wide. After this is done and this real estate situation taken care of, maybe we should look at that entire block and get it taken care of.

Councilman Niemeyer 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. 4413 be passed and adopted?" Upon roll call vote the following Councilmen voted YEA: Harrington, Peterson, Odom, Krings, Hoops, Skutnik, Goebel. NAY: None. The passage and adoption of said ordinance have 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 November 26, 2014.

At this time a public hearing was held on the request of Mesner Development Company to rezone property (Emerson Estates) from RP-1 Urban Single Family Residential Planned District to RP-1 Urban Single Family Residential Planned District (amend planned district).

No one appeared to speak in favor.

No one appeared to speak in opposition.

The City Clerk advised that her office had received no written objections.

The Mayor declared the hearing closed.

**ORDINANCE NO. 4414**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO PROVIDE FOR AN AMENDMENT TO THE PLANNED DISTRICT DESIGNATION FOR EMERSON ESTATES SUBDIVISION, FORMERLY PLATTED AS ARBOR SUBDIVISION TO THE CITY OF HASTINGS WHICH IS CURRENTLY ZONED RP-1 URBAN SINGLE FAMILY RESIDENTIAL PLANNED DISTRICT; TO REPEAL ANY ORDINANCES IN CONFLICT HERewith; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT (Amending planned district for Emerson Estates Subdivision)

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

Councilman Goebel stated he if remembers right, we looked at this property in the past and there was a problem with the fire lane, questioned if that has been resolved.

The City Attorney stated interestingly enough there is a hard surfaced access point that is on the east end of the development that has been used by the apartment complex. The Fire Chief has talked with the owners of the apartment complex about relocating a second drive which is very important so that a fire apparatus can get in, turn around and get back out. They are agreeable to that, we have worked with the CRA as far as working on the financing for that curb cut for that extra drive and the CRA is willing to go ahead with that. It looks like we will be able to solve that situation and the hard surfaced area is part of this subdivision and this plan development will no longer be necessary, but we are retaining easements that go across there.

Councilman Krings stated he made contact with Mr. Mesner today because he wasn't able to attend tonight's meeting and he is ok with the conditions suggested by the Planning Commission.

Councilman Odom stated he noticed there is what appears to be a car storage unit/junk yard to the east of that and knows that was talked about a couple of years ago, is that being investigated or looked at.

The City Attorney stated that property is on the NEAT Committee list and we have several violations we are looking at and trying to address with the owner of that property.

Councilman Odom stated his concern does relate to this, this property has been there a long time the way it is and he is glad to see Mr. Mesner has picked this up and doing something with it.

Councilman Niemeyer moved that the statutory rule requiring reading on three different days be suspended; Councilman Harrington 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. 4414 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 November 26, 2014.

At this time a public hearing was held on the request of James Thom for a Conditional Use Permit to allow an accessory residence at 5130 Osborne Drive East.

Dave Fisher, Attorney representing James Thom, appeared to speak in favor of the Conditional Use Permit. Mr. Fisher stated Mr. Thom owns about 22 acres just across from the Lochland development and on that property is an older, well constructed, but unused horse barn. Mr. Thom is making and developing that into an exercise area and in conjunction with that, he is going to add utilities and a bathroom so that it can be turned into a literal residence. Under the new statute that you are going to approve after this item is to provide for residential accessory in a R-1 Ag Zone. Mr. Thom is going to spend substantial funds in upgrading, improving and developing this building. One thing that did arise was that statutes provided only for immediate family members to be using that particular residence and he raised the issue at the Planning Commission concerning use of that by 24/7 type caregivers and caretakers. Mr. Fisher stated he believes that is being addressed along those lines.

No one appeared to speak in opposition.

The City Clerk advised that her office had received no written objections.

There being no other persons wishing to speak, the Mayor declared the hearing closed.

Moved by Odom, seconded by Skutnik that the Mayor and Council approve the application of James Thom for a Conditional Use Permit to allow for an accessory residence at 5130 Osborne Drive East, subject to the following conditions:

1. Accessory Detached Dwelling shall be limited in use to housing immediate family members who live in the principle detached dwelling located on the lot. Immediate family members shall mean either the parent(s) or child(ren) of the owner of the principle building.
2. Accessory Detached Dwellings shall be located only on lots having one area of five (5) acres or greater.
3. Accessory Detached Dwellings shall not be in a mobile home. Manufactured homes utilized for Accessory Detached Dwellings shall meet the minimum requirements set forth in Hastings City Code Section 34-2012.
4. Accessory Detached Dwellings shall have a minimum of habitable area of 850 square feet.
5. Accessory Detached Dwellings shall have utility services shared with the principle detached dwelling located on the lot.
6. Accessory Detached Dwellings shall not be larger than the principle dwelling on the lot.
7. When an Accessory Detached Dwelling is no longer utilized by an immediate family member as defined in this section, the Conditional Use Permit shall be null and void. The Conditional Use Permit holder shall notify the Development Services Department in writing that the Accessory Detached Dwelling is no longer being used within 30 days of cessation of use.

The Mayor stated what a wonderful project this will be for Mr. Thom. The Mayor stated if he had the opportunity to do that for his child and or his family, he sure would want to do it. What do we have to do to broaden that a little bit for anybody that is a caregiver.

The City Attorney stated that that was the direction Planning Commission wanted to go and they directed us to bring to them at their next meeting an amended definition. Right now it says servant's quarters and we have been working on that and have come up with something they are going to present to the Planning Commission at their November 17<sup>th</sup> meeting.

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

At this time a public hearing was held on the request of the City of Hastings Development Services Department to amend Hastings City Code Chapter 34 to allow accessory residences in the Agriculture District.

No one appeared to speak in favor.

No one appeared to speak in opposition.

The City Clerk advised that her office had received no written objections.

The Mayor declared the hearing closed.

**ORDINANCE NO. 4416**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO AMEND SECTIONS 34-104(1), 34-200, TABLE 200-1, 34-201 AND 34-404 OF THE OFFICIAL CITY CODE; PROVIDING A DEFINITION FOR ACCESSORY RESIDENCES; ALLOWING ACCESSORY RESIDENCES AS A CONDITIONAL USE IN THE AGRICULTURAL ZONING DISTRICT; ESTABLISHING MINIMUM CONDITIONS FOR ACCESSORY RESIDENCES; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING ANY ORDINANCE OR OTHER PROVISIONS IN CONFLICT HEREWITH

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

Councilman Niemeyer moved that the statutory rule requiring reading on three different days be suspended; Councilman Odom 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. 4416 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 November 26, 2014.

Moved by Niemeyer, seconded by Skutnik that the Mayor and Council approve the application of Hastings Utilities for Preliminary/Final Plat of Well Field Fourth Addition.

Hastings Utilities Manger Marvin Schultes stated this is part of the building of the necessary lagoon for the property we are purchasing just south of the U.P. tracks by North Baltimore to

keep the water safe.

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

At this time a public hearing was held on the request of Hastings Utilities to bring proposed Well Field Fourth Addition into the corporate limits of the City of Hastings.

No one appeared to speak in favor.

No one appeared to speak in opposition.

The City Clerk advised that her office had received no written objections.

The Mayor declared the hearing closed.

Moved by Krings, seconded by Odom that the Mayor and Council approve the request of Hastings Utilities to bring proposed Well Field Fourth Addition into the corporate limits of the City of Hastings. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

At this time a public hearing was held on the request of Hastings Utilities to amend the Comprehensive Land Use Plan Map for proposed Well Field Fourth Addition from Parks & Recreation to Public/Semi-Public.

No one appeared to speak in favor.

No one appeared to speak in opposition.

The City Clerk advised that her office had received no written objections.

The Mayor declared the hearing closed.

### **ORDINANCE NO. 4411**

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA TO AMEND THE CITY OF HASTINGS COMPREHENSIVE LAND USE PLAN; TO RE-DESIGNATE THE DISTRICT CLASSIFICATION AFFECTING THE PROPERTY DESCRIBED IN SECTION ONE OF THIS ORDINANCE; AND TO REVISE THE ORIGINAL DESIGNATIONS (Amending Comp Plan from, Parks & Recreation to Public/Semi Public affecting Well Field Fourth Addition)

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

Councilman Harrington moved that the statutory rule requiring reading on three different days be suspended; Councilman Niemeyer 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. 411 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 November 26, 2014.

The Mayor asked the City Engineer to inform the Council of what he has learned before we hold the public hearing on the request of Hastings Utilities to rezone proposed Well Field Fourth Addition from A Agricultural District to I-1 Light Industrial for an Irrigation/Water Storage Facility,

City Engineer Dave Wacker stated there are some flood plain issues, some floodway issues that have been brought to our attention within the last two weeks relative to this project. About a month ago the Department of Water Resources came into town and announced that they will be completing a new Flood Study for all of Adams County. We have been in contact, in the last two weeks, with the Department of Water Resources and hopefully by next Thursday we will have some determination where the floodway area is designated in this area. Floodway by definition is that area in a flood plain that cannot be developed, in which you cannot put in any fill, it has to be left open for the conveyance of flood waters. The ultimate project may be affected based on where this floodway boundary is designated. The City Engineer stated we don't have concern about the use of the property, it is just we don't want to jeopardize the federal flood insurance program in Hastings and make sure that floodway is adequately preserved so there is no flooding of any residential properties in our community.

The Mayor asked the City Attorney if he recommended that we postpone.

The City Attorney stated the final outcome with the flood insurance program could take several months if not longer. Hopefully, as the City Engineer has suggested, that next Thursday we will have something from the Department of Water Resources that will be more definitive than what our old map have been. The thing is this is just to rezone the property, obviously the zoning as

well as the subdivision may need to be either replatted or the zoning expanded depending on where the final outcome of that is. The City Attorney stated you could certainly go ahead and pass this as it is, just understand that what the City Engineer has shared with you may cause this to have to move or change somewhat depending on what the final outcome of the flood program is. Right now, none of us know what that final outcome will be, but obviously this is a project that is very important to the City dealing with water quality issues, it is something that Hastings Utilities has worked real hard on and is in the process of wanting to get this water storage facility built as soon as possible. By passing this, we aren't foreclosing that in anyway, shape or form, it is just that it may need to be tweaked in the future depending on what the final outcome of the map shows.

The Mayor questioned if there would be financial ramifications if we passed something tonight and then next Thursday they decide something.

The City Attorney stated the financial ramifications may be the design of the facility would have to change and that would be between Hastings Utilities and their engineering consulting firm. Whether or not it would take additional land that they don't own, he doesn't know at this point in time, but if it required the purchase of additional land, that is something Hastings Utilities would have to look at down the road. The City Attorney stated not knowing what the final flood program map is going to show, it is kind of hard to forecast as far as whether anything will be necessary. It may not be at all, there have been a number of improvements along Baltimore and then onto the east where box culverts have been changed. Whether or not that affects how they look at the floodway or not he doesn't know. It is one of those things we have to be vigilant about and is sure the City Engineer and the engineers at Hastings Utilities are on top of this and they want results and an answer as soon as they can because of the importance of this project.

The Mayor asked the Utilities Manager if a one meeting or two meeting postponement would do anything for us.

Marvin Schultes, Utilities Manager, stated the design is pretty close to complete already, doesn't believe it would make any difference from the standpoint of that aspect. We obviously have to meet all the conditions of the flood plain, either way he believes we are fine.

The City Engineer stated it may affect about one-third to one-half of it which would mean, if it was in the flood plain, you couldn't build it. The consequences may be where you have to purchase additional property to the west.

Councilman Niemeyer stated from what he has heard, it is not going to matter one way or another. If we were to postpone this tonight, it isn't going to change what Hastings Utilities is doing. It will allow everyone to get their ducks in a row and we can come back and approve this when we have more answers to our questions.

The City Attorney stated it might be more prudent to wait just to hear what the Department of Water Resources has to say a week from Thursday, that might be definitive and give us a better forecast.

Moved by Niemeyer, seconded by Skutnik that the public hearing on the request of Hastings Utilities to rezone proposed Well Field Fourth Addition from A Agricultural District to I-1 Light Industrial for an Irrigation/Water Storage Facility be postponed to December 8, 2014 Council Meeting. Roll Call: Ayes: Harrington, Peterson, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: Odom. The motion carried.

Moved by Harrington, seconded by Peterson that the Council approve agreement with Olsson Associates for professional engineering services for methane gas monitoring at the Hastings South Landfill and that the Mayor be authorized to sign agreement. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Moved by Goebel, seconded by Skutnik that the Council approve the Interlocal Cooperation Act Agreement between the City of Hastings and Adams County for the construction of the 42<sup>nd</sup> Street/Showboat Truck Bypass Project and that the Mayor be authorized to sign said agreement. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Moved by Niemeyer, seconded by Hoops that the Council approve Telecommunication Line Right-Of-Way License Agreements Nos. GW-2014-3 and GW-2014-4 with Glenwood Telecommunications, Inc. and that the Mayor be authorized to execute said License Agreements. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Moved by Skutnik, seconded by Hoops there being no further business to come before the Council, the meeting adjourn at 8:20 P.M. Roll Call: Ayes: Harrington, Peterson, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

APPROVED:

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Mayor

11-10-2014

ATTEST:

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City Clerk

( S E A L )