

CITY OF HASTINGS, NEBRASKA  
MINUTES OF CITY COUNCIL REGULAR MEETING  
Monday, November 23, 2015

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Hastings, Nebraska was conducted in the Council Chambers of City Hall, 220 N. Hastings Avenue, on November 23, 2015.

The meeting was called to order at 5:30 p.m. in Regular Session by Mayor Powers with the following members present: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel.  
Absent: None.

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

Moved by Skutnik, seconded by Harrington that the Agenda for the November 23, 2015 Regular Meeting be adopted. Official Notice of the meeting was given in the Hastings Tribune on Friday, November 20, 2015. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel.  
Nays: None. Absent: None. The motion carried.

Mayor Powers read the Public Notice – Pursuant to the Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today’s agenda and all reproducible written material which will be discussed at today’s meeting is located at the back of the Council Chambers. Also, a current copy of the Nebraska Open Meetings Act is posted on the south wall of the Council Chambers which is accessible to members of the public.

Councilmember Goebel reported on the Board of Public Works joint worksession with City Council in the Hastings Utilities Boardroom to discuss the 2016 Hastings Utilities Budget. A report was given November 12<sup>th</sup> by Corey Stutte and Linsey Martin, on behalf of the Chamber Retail Development Committee. The next Board of Public Works meeting is scheduled for Thursday, December 3<sup>rd</sup>.

Councilmember Duval reported on the quarterly Complete Street Committee meeting held last week. Street crossing safety concerns along the newly resurfaced 12<sup>th</sup> Street were discussed. The committee is looking at LED flashing lights and green striping in crossing areas. Approximately 100 trees will be planted next spring along the hike/bike trail, in addition to benches being added.

**CITIZEN COMMUNICATION:**

Craig Dewalt, 747 North Lincoln Avenue, appeared to speak in reference to the agenda item rezoning Burlington North Addition (Bryce Bares, Galaxy Ventures II, LLC—708 N. Burlington Avenue). He encouraged City Council to consider a few things when moving forward. He encouraged requiring a masonry fence to absorb sound, downward facing light, and hours of operation limited from 6:00 A.M. to 7:00 P.M. He thanked the Council for the opportunity to make concerns known.

Bernard Goff, 15130 West 70<sup>th</sup>, Kenesaw, spoke in general support of the Dunkin’ Donuts project.

Bryce Bares, 16379 Cheyenne Road, Omaha spoke in support of the agenda item on 708 North Burlington Avenue. He stated that Dunkin’ Donuts plans to mimic the residential design of the shingled roof, high windows, and brick exterior as the banks have on their properties. Bryce presented an exhibit of how the Dunkin’ Donut property would appear. The orange awning is a preference, but not a requirement. He discussed the sign, which will not be lit on the residential side, to resolve the issue brought up by Mr. Dewalt. The lighting on the property will be downcast so the light will not shine towards the residential area. The property will have a bike path across front entrance to the sidewalk. The development will have a bike rack and will be pedestrian friendly.

He highlighted environmental impacts from construction through the operation of the everyday business. He commented the suggested masonry fence would be a significant expense. The development will have a landscape buffer between properties, as recommended by the Planning Commission. Currently, access is vehicle easements running across both properties. Continuity of development to go from north to south within development is an important piece of the planned district. The maximum impact expected on Burlington Avenue is to add 100 cars per day. This number is based on a study done at existing stores. Dunkin' Donuts will construct a monument sign. The barrier trees will be narrow trees which at maturity get five feet wide and twenty feet in height. There will be thirty parking spaces. All employees entering the building prior to store hours must enter through the front door, for security reasons because of darkness. This will mitigate noise concern because of staff in the morning. The dumpster will be protected by landscaping and masonry walls on three sides and a gate.

Councilmember Hoops voiced her concern about a dual franchise with Baskin-Robbins. Bryce stated there is no intention to add Baskin-Robbins to this business. Dunkin' Donuts owns Baskin-Robbins and will run promotions with flavored coffees. He committed to the City Council that no ice cream will be sold in the Hastings store.

Bob Parker, 726 Eastside Blvd, Seiler and Parker Law Firm appeared to speak on behalf of the Bank of Doniphan. Bank of Doniphan is in the process of obtaining bids to extend their masonry fence. He understood Mr. Bares to say a landscape buffer would be placed to the north end of the Dunkin' Donuts property where drive-thru customers would have to exit through the curb-cut on the south exit of the Dunkin' Donuts property, as opposed to the one on the Bank of Doniphan property. The concern is a traffic flow problem with drive-thru operations.

Joyce Nelson, 741 North Lincoln Avenue, owns property near the property development. Her concern is the noise. Plastic fence doesn't buffer the sound. She would appreciate something more substantial, like a masonry fence, for the noise factor. She stated that both light and sound are an issue.

Moved by Niemeyer, seconded by Hoops that the following items on the Consent Agenda be approved:  
1(a) Minutes of the Council Meeting of November 9, 2015.

2(a) Approval of the request of Murphy's Wagon Wheel, Inc. for a Special Designated License at the Hastings Museum on January 2, 2016.

4(a) Payroll for the period ending November 21, 2015, paid November 27, 2015, and for the period ending December 5, 2015, paid December 11, 2015.

(b) Regular claims and authorizing the City Clerk to issue checks against the various funds for payment.

5(a) Department Monthly Reports received and placed on file.

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

Moved by Niemeyer, seconded by Skutnik to bring Resolution No. 2015-32 from the table.

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

## **RESOLUTION NO. 2015-32**

**WHEREAS**, the City of Hastings Municipal Code establishes regulations, requirements, and specific conditions for approving development plans for planned districts which have been designated by ordinance approved by the Mayor and City; and

**WHEREAS**, applicant Galaxy Ventures II, L.L.C, a Nebraska Limited Liability Company has submitted an application for the approval of a Development Plan to amend Planned District CP-2, Central Business District with a Planned District Overlay, for property described as Lot 2, Burlington North Subdivision, said property located at 708 North Burlington; and

**WHEREAS**, the Planning Commission and City Council have conducted public hearings as required by law and recommended approval of the Development Plan with certain conditions to be attached to this Resolution;

**NOW THEREFORE**, in consideration of the foregoing recitals, the Mayor and City Council of the City of Hastings, Nebraska, hereby approve the Development Plan and the recommended conditions, and further do hereby adopt the following resolution:

**BE IT RESOLVED** by the Mayor and City Council of the City of Hastings, Nebraska, does hereby approve the Development Plan for Lot2, Burlington North Subdivision to the City of Hastings, Adams County, Nebraska, subject to the following conditions:

- 1) The improvements shall be built and constructed pursuant to the development plans on file with the Development Services Department as of the date of this Ordinance.
- 2) All contracts and agreements to be signed and executed prior to the City Council meeting of November 9, 2015 or this application will be tabled until the documents are duly executed.
- 3) A PVC fence constructed to give the appearance of a stone wall eight feet (8') in height shall be erected along the east property line for the length of the property.
- 4) All outdoor light fixtures shall be downcast, sharp cut-off fixtures and recessed can lighting in the building eaves.
- 5) The primary sign shall be a monument sign as depicted in the plans and not a free-standing pole sign.
- 6) Noise generated from the menu board speaker and drive-thru pick up window shall be minimized to that of normal casual conversation and not amplified.
- 7) Storm water drainage shall be collected in the drive lanes and parking areas and directed away from the houses to the east.
- 8) The Landscape Plan shall be revised to depict the following additions;
  - a. Add two (2) deciduous canopy trees in the landscape strip west of the drive-thru lane. Two-inch (2") caliper size.
  - b. A total of seven (7) additional Hetzii Juniper trees to be added for screening of the neighboring properties to the east. Two more trees to the grouping of three on the north and south end as well as a grouping of three more worked in between the middle two groupings of three is appropriate.
  - c. Add proposed landscaping to screen refuse collection dumpster

Moved by Skutnik seconded by Niemeyer to approve Resolution 2015-32.

Councilmember Skutnik asked Mr. Dewalt is it the sound from Dunkin' Donuts or from Burlington Avenue that you are trying to squash?

Craig Dewalt answered that it is the sound from Dunkin' Donuts that is his concern, as customers will be traveling within ten feet of his lot line to use the drive-thru facilities and add to that the speaker noise. He supported the original redevelopment plan years ago, but part of that plan was to build a masonry fence. The fence didn't come to pass. The previous residential housing along Burlington Avenue had blocked the traffic noise. He stated that noise doesn't get blocked by trees, so it is necessary to abate some of that.

Councilmember Niemeyer stated this is a C2 Planned District. Planning and Zoning has researched it and put their recommendations on it. Covenants are within this Planned District, but it is not the Council's job to enforce the covenants. If Planning and Zoning says this fits within the C2 guidelines, he is obligated to allow it. Any other civil covenants that need to be enforced, need to be handled by the residents in that area, not by council.

Councilmember Duval commended people for trying to come together to work for the overall plan. She commented the Planning and Zoning is a commission that tells us what will fit, but it is the Council's decision to make. It is not an easy decision. She asked if the traffic becomes a problem on Burlington Avenue, who would pay for cost of extra traffic control?

Joe Patterson said that the State of Nebraska will not allow any additional traffic light.

Councilmember Duval asked if there is a written agreement about the masonry fence? If so, what is the agreement?

Mr. Ptak stated the covenants say there will be no fencing. However, when Council met in 2004 and approved portions of this, although they never approved a plan, per se, they talked about the neighbors were to negotiate with the property owners and if they couldn't come to an agreement, then it was to be a masonry fence. That is part of the minutes from the December 13, 2004 Council meeting. You could arguably say that was part of a plan, although none of the rest of it seemed to make it into that plan. There are also the cross easements that are talked about with regard to the covenants, because of the original design that never got approved formally, as far as what was supposed to be there. There are different things at play here and because they are covenants, we don't enforce those covenants. That is for the owners of the lots within the subdivision to enforce amongst themselves in that regard. This is a plan and if the times change and the plan needs to be changed, I think any party could come in and ask that the plan be reviewed at that point and time and we would have another discussion, both at the Planning Commission level and also at Council level to determine any modifications that may be necessary, as far as it is to that plan. There might be a possibility of getting the CRA involved as far as TIFF improvements created, to help alleviate some of the cost of that fence, with regard to the payment through the property taxes that the owner of Lot 2 and the improvements that would be made would generate. The Resolution that you have in front of you is to approve a plan, where we have no plan right now. Some of the things talked about in regards to fencing, etc. are not part of the covenants. As a result it makes it an interesting situation of who's going to enforce them, if anybody. Also, reading the minutes from 2004, the City Planner advised once the zoning is changed to C2 any allowable use in C2 could be put into the development. Without any formalization of that plan, that would have had an office building as was discussed, but it was never approved as such. There was discussion about the possibility of a greenspace on the north end of Lot 2. That was communicated to Mr. Bares. He told me that he would have his architect look at it and maybe revise the plan and he was going to send me one if they revised it. I did not receive any plan, so the plan you have in front of you appears to be the same plan that was presented at the November 9<sup>th</sup> Council meeting, except for the landscaping changes that the Planning Commission asked for. You need to be reasonable with regard to the plan. Mr. Ptak believes Dunkin' Donuts is an

allowable use in that zoning. Now it is a matter of arriving at what conditions you feel are reasonable with regard to the area. Not only for this operation, but the neighboring properties as well.

Councilmember Duval summarized that we would have some leeway to put in a masonry fence, but wouldn't be a requirement.

Mr. Ptak stated that he heard many things tonight that are not in the resolution. If we erred in 2004, we didn't reduce any of those items discussed into writing so that we could have something that we would know what to enforce and what not to enforce. Hopefully we will get some direction by the elected officials to help the planning folks know exactly where we need to be with this.

Councilmember Duval mentioned that we don't want to micromanage items such as color choice of awnings or no awnings, where that should be a Dunkin' Donuts decision.

Mr. Ptak stated that what we had in the resolution is that the plan had to be based upon the development plans that were on file with the Department of Development Services as of November 9, 2015. You have to tie it to something. If you don't tie it to something, what you see might not be what you get. That is the danger of not being specific as far as in a planned district. As far as knowing what it is that you want to end up with and you owe it to the neighboring property owners to protect them as well.

Councilmember Duval asked if the evergreen trees would hinder sound?

Jeff Hassenstab stated that it would provide a screening, but it will not be 100 percent.

Joe Patterson addressed Mr. Parker's comments. We met with the Bank of Doniphan representatives a few times. Their concern was traffic out of the north curb-cut tying up traffic to and from their drive-up window. I thought we had an understanding that we would be sealing that area off and making that a greenspace. We had reduced what we had required for parking, based on the number of staff and patrons that would be in the building. I understand with flow of traffic through, all the planning elements involved. We looked at that as a possible greenspace that might help mitigate some of the noise concerns of the neighbors, beautify the area and still meet the goal of traffic flow in and out of the property. Apparently, Mr. Bares had a change of heart and wants to go with what you see before you. I'm okay with that. I wanted you to know that we worked on that issue last week, thought we had a compromise that would work and appease the Bank of Doniphan as well.

Councilmember Hoops had a question about the curb cut-out. It sounded like the City had a choice in that. She asked either Joe Patterson or Dave Wacker to speak to that.

Joe Patterson clarified that the Nebraska Department of Roads (NDOR) turns curb-cuts over to the City. Mr. Wacker looked at that to see if there was a possibility of another curb-cut. The problem with curb-cuts too close is you get into merging traffic coming in and out and you make the situation more dangerous than if you didn't have it. There are distance requirements, Dave Wacker would know since he is the Engineer. He visited with Wes Wahlgren, Nebraska Department of Roads, and he said it is our issue on the curb-cuts. NDOR will not approve additional traffic lights.

Councilmember Hoops commented that she wants to revise and add a few stipulations recommended by Planning and Zoning. She mentioned several possible revisions.

Councilmember Hoops asked if Mr. Bares would consider TIFF for the masonry fence?

Mr. Bares stated that he would be open to TIFF, if it would help mitigate the cost over time for the masonry fence. He asked that the financial feasibility be looked at by the Council when approving this.

Councilmember Hoops asked Mr. Bares to speak to the parking lot greenspace.

Mr. Bares stated this is a planned district and should be a cohesive development. Blocking off the Bank of Doniphan would not help. If this becomes a traffic problem we are not precluded from doing this at any point in the future. The curb can be continued in the future, if that becomes a concern. We can work that out with the Bank of Doniphan.

Councilmember Goebel stated his main concern is traffic flow and congestion. He talked to Dave Wacker last week. There are other sites in the City of Hastings with similar traffic flow through parking lots. The three curb-cuts that are on the entire development replaced 14 driveways that were residences prior to 2005. These driveways were potential hazards that existed up to 2005. He commented that the combination of landscaping and an eight-foot vinyl fence should mitigate a fair amount of the noise problem.

Councilmember Krings asked about the mature height of trees.

Lance Lang, City Planner, stated at maturity they would be 18-20 feet in height. Planning Commission comments on the resolution stated the need for additional trees, so there are seven more of those columnar trees than on the original plan, to provide a dense sound barrier.

Councilmember Krings stated that this comes down to an eight foot vinyl fence with taller trees at maturity versus an eight foot concrete fence. Eventually there will be a much better sound barrier with the option of the fence and trees, because of the additional height of the trees. He asked Joe, if we approve as presented without amendments regarding fencing, is there any authority once passed to enforce that?

Joe Patterson stated that whatever your intent is should be in your motion.

Councilmember Krings asked if Mr. Bares is aware of the cost difference between what he is proposing in the vinyl fence and taller trees versus the masonry fence? Mr. Bares stated he thinks the landscaping cost would be approximately \$60,000. Krings encouraged Mr. Bares to visit with Randy Chick regarding funds available to mitigate the financial impact of a masonry fence. He asked in good faith to sit down and discuss what is best for the area.

Councilmember Niemeyer stated that an eight feet vinyl fence with landscaping buffer is adequate. He agrees with most of Hoops amendments, except limiting hours of operation. That over-extends the authority of the City.

Councilmember Krings asked if there are any regulations or rules within a commercial district for hours of operation? Would he be able to be open 24 hours if he wanted to be?

Mr. Ptak stated that the hours of operation is the easiest item for Dunkin' Donuts to agree to.

Mr. Bare agreed that he is fine with the restriction on operating hours.

Mr. Parker stated that Mr. Bares has fast-tracked the development and found a loophole. He explained that in 2005 this was R3 Residential. It was a historical district. Many people wanted all residential with no businesses. Tom Lavitz got it through as a CP2 Central Business Planned District. It was supposed to be all commercial buildings no residential. Tom Lavitz was grantee and also recipient of the deal. The plan was never approved and made part of the ordinance. The bank spent \$130,000 on a masonry fence and a lot of money on their building. Residents were promised that it would be all commercial in nature.

Moved by Hoops, seconded by Duval to amend the main motion to approve Resolution No. 2015-32, (introduced at the November 9, 2015 meeting) with the following revision to item number 5 of the conditions to state the primary sign shall be a monument sign as depicted in the plans and not a freestanding pole sign. Lighted signage is allowed on the west side of the building. Signage on other sides of building shall not be lighted. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. Absent: None. The motion carried.

Moved by Hoops, seconded by Duval to amend the main motion to approve Resolution No. 2015-32, (introduced at the November 9, 2015 meeting) with the following revision to item number 8 of the conditions to add 8.d. Incorporate a pedestrian path and painted crosswalk from sidewalk on the west side of the property to the main entrance. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. Absent: None. The motion carried.

Moved by Hoops, seconded by Krings to amend the main motion to approve Resolution No. 2015-32, (introduced at the November 9, 2015 meeting) with the following revision to add item number 9 to the conditions to state exterior awnings over windows must be in a shade of brown to encourage consistency within the appearance of the development. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Goebel. Nays: Skutnik. Absent: None. The motion carried.

Moved by Hoops, seconded by Duval to amend the main motion to approve Resolution No. 2015-32, (introduced at the November 9, 2015 meeting) with the following revision to add item number 10 to the conditions to state business operating hours are allowed between 6am and 7pm. Roll Call: Ayes: Harrington, Duval, Odom, Hoops, Goebel. Nays: Niemeyer, Krings, Skutnik. Absent: None. The motion carried 5-3.

Councilmember Hoops asked for clarification on who would own the discussion about a fence, if we go forward with a motion at this point.

Mayor Powers stated that we will hand it off and the developer will have the final say.

Mr. Ptak clarified the motion, unless it is amended, would say a PVC fence constructed to give the appearance of a stone wall eight feet (8') in height shall be erected along the east property line for the length of the property.

Councilmember Odom asked Marv Schultes if there is any type of utility easement behind this fence or between these two pieces of properties? Mr. Schultes did not know. Mr. Wacker recalled that there is sanitary sewer easement that is there to service the property. Mr. Wacker stated that he would not personally put a masonry wall over top of a sanitary sewer.

Councilmember Odom asked if the current masonry fence is built on top of the sanitary sewer? That is his question. Neither Schultes nor Wacker believe that it is.

Councilmember Odom stated that the fence can be built, but not on sanitary sewer. To clarify, the fence would be the developer's fence, as he understands it.

Councilmember Hoops stated, we discussed having in good faith the possibility of the developer talking to Randy Chick. Right now the resolution says PVC fence.

Councilmember Krings stated that it doesn't put as a requirement if just add what's listed on the resolution or a masonry fence.

Harrington-generally happy with projects. No perfect solution. We have made a lot of efforts to make the project better. That Lot has been vacant for a long time. This would be a step in the right direction.

Moved by Hoops, seconded by Duval to amend the main motion to approve Resolution No. 2015-32, (introduced at the November 9, 2015 meeting) with the following revision to item number 3 to the conditions to state a matching PVC or masonry fence.

Councilmember Odom voiced concern on allowing the developer to choose between masonry fence and PVC fencing. If we are trying to get a masonry fence, this will not get it. The Council needs to say which type of fence we want.

Councilmember Krings stated that this wording would allow the flexibility to have that conversation. It is his understanding that there are enough funds available to be able to incentivize this project being built but we will have the discussion. If not, he is not willing to put a requirement on this project that makes it cost prohibitive from coming to town.

Councilmember Niemeyer stated that he knows what the Bank of Doniphan's fence looks like. It is cinder block in the middle with nice brick columns and a cap across the top. There is more than one kind of masonry fence and eight foot cinder block wall would be classified as a masonry fence. He feels what the Planning Commission put down as their recommendation is adequate. Once we start talking about cinder fence we have to ask if it is going to match the Bank of Doniphan fence or is it going to be something less? He is not in favor of that.

Councilmember Goebel asked if it would be possible to pass as is, and if circumstances should evolve that it could be a more substantial masonry fence and amend this at a later date?

Mr. Ptak stated you could, except once the PVC fence is put up there has already been that expense depending on how long it takes to get the numbers together as to whether or not there would be enough dollars available as far as to use TIF for it. I don't know what Mr. Bares timetable is but it could potentially add delay to his going forward with this project.

Councilmember Goebel possibly the rest of the development could go ahead while waiting on the decision on the fence. I don't know that the fence would need to be built first. Maybe it would.

Mr. Ptak commented that the developer might want to know his cost before he turns too many shovels.

Mr. Bare commented that the PVC fence was the discussion with the neighbor who is most impacted by this project, Greg Sinner. Mr. Bare gave Greg a variety of options and he ultimately chose it. One of the handshake agreement commitments that he made was to put up the fence at the very beginning of the project so there not having to deal with the construction noise. That is his preference.

Roll Call: Ayes: Harrington, Duval, Krings, Hoops. Nays: Odom, Niemeyer, Skutnik, Goebel  
Absent: None. The vote was tied at 4-4. Mayor Powers broke the tie with a vote in favor. The motion carried.

Councilmember Odom called for the question to approve Resolution 2015-32 as amended.  
Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None.  
Absent: None. The motion carried.

Public hearing on the 2016 Hastings Utilities Budget

Jeanette Dewalt, 747 North Lincoln Ave., appeared to speak in favor. She thanked the Council for allowing Hastings Utilities to pass 12 month budget with stopping at 9 months. The 2016 Budget has a breakdown per department and by position for labor to get a better hold on position expense. There is also funding budgeted for a staffing study to see if they can become more efficient.

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, Mayor Powers declared the hearing closed.

ORDINANCE NO. 4461. . ESTABLISHING FAIR AND EQUITABLE RATES FOR THE CONSUMPTION OF ELECTRICAL ENERGY FROM THE ELECTRIC POWER PLANT AND DISTRIBUTION SYSTEM OF THE CITY OF HASTINGS.

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

The Mayor then stated the question “Shall Ordinance No. 4461 be passed and adopted?” Upon roll call vote the following Councilmembers voted YEA: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel No: None. Absent: None. The motion passed.

Councilmember Krings moved that the statutory rule requiring reading on three different days be suspended; Councilmember Niemeyer seconded the motion to suspend the rules and upon roll call vote the following Councilmembers voted YEA: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel No: None. Absent: 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 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 upon second and final reading and the Mayor signed and approved the ordinance. City Clerk attested the passage approval of the same and affixed her signature thereto. Published in the Hastings Tribune on November 27, 2015. Effective date of the ordinance is December 9, 2015.

ORDINANCE NO. 4462. . ESTABLISHING FAIR AND EQUITABLE RATES FOR THE CONSUMPTION OF WATER FROM THE WATER DISTRIBUTION SYSTEM OF THE CITY OF HASTINGS.

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

The Mayor then stated the question “Shall Ordinance No. 4462 be passed and adopted?” Upon roll call vote the following Councilmembers voted YEA: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel No: None. Absent: None. The motion passed.

Councilmember Krings moved that the statutory rule requiring reading on three different days be suspended; Councilmember Harrington seconded the motion to suspend the rules and upon roll call vote the following Councilmembers voted YEA: Harrington, Duval, Odom, Niemeyer, Krings, Hoops,

Skutnik, Goebel No: None. Absent: 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 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 upon second and final reading and the Mayor signed and approved the ordinance. City Clerk attested the passage approval of the same and affixed her signature thereto. Published in the Hastings Tribune on November 27, 2015. Effective date of the ordinance is December 9, 2015.

#### **RESOLUTION NO. 2015-34**

WHEREAS, the Board of Public Works has been created by ordinance under statutes of the State of Nebraska by the Mayor and Council of the City of Hastings for the purpose of directing and supervising the operation of Hastings Utilities, a proprietary function of the City of Hastings, in the delivery of all utility services, including water, sewer, electricity, natural gas, and street lighting, to residents, businesses and industries of the City of Hastings; and,

WHEREAS, the Hastings Area Chamber of Commerce (Chamber), a not-for-profit corporation organized and existing under the statutes of the State of Nebraska, has been created for the purpose of promoting economic development and commercial activity in the City of Hastings and Adams County and for encouraging investment in the City of Hastings and Adams County and the businesses, industries and institutions located therein; and,

WHEREAS, Hastings Utilities provides utility services to all ratepayers on the basis of the cost of producing and delivering each utility service and the cost of each service is reduced for all ratepayers by delivery of services to commercial businesses whose use of utility services is constant on a daily, monthly and annual basis; and,

WHEREAS, the Chamber has always promoted the growth of commercial activity in the City of Hastings and Adams County and has persuaded companies to locate new businesses in the City of Hastings and Adams County; and,

WHEREAS, through the promotion of commercial activity by the Chamber Hastings Utilities has increased its capacity to serve ratepayers and has reduced rates for utility services without the expense of creating and funding its own economic development office; and,

WHEREAS, it is in the interest of Hastings Utilities and its ratepayers and of the City of Hastings to continue support of economic development and of commercial activity through the Chamber; and,

WHEREAS, the City Council of the City of Hastings is authorized under the provisions of Section 13-315 of the Revised Statutes of the State of Nebraska to expend revenue received from any of its proprietary functions to promote economic development and to conduct a publicity campaign advertising commercial and other resources of the City;

WHEREFORE, in consideration of the foregoing recitals and of the continued benefit of the activity of the Chamber to Hastings Utilities and to the City of Hastings, be it hereby resolved by the Mayor and City Council of the City of Hastings:

1. That the Board of Public Works of the City of Hastings is hereby authorized to expend an amount not to exceed \$30,000 for the benefit and support of the Chamber during 2016;

2. That the Chamber shall continue to exercise its best efforts to promote the purposes for which it was created and to promote economic development and commercial activity in the City of Hastings and Adams County which will make regular use of services provided by Hastings Utilities;

3. That Hastings Utilities shall continue to cooperate with the Chamber in the exchange of information which will attract qualified businesses and commercial activity to the City of Hastings and Adams County;

4. That the Chamber shall continue to develop commercial activities requiring services provided by Hastings Utilities;

5. That the Chamber shall provide annual reports to the Board of Public Works concerning economic development and commercial activities in the City of Hastings and Adams County and concerning the use of the investment from Hastings Utilities and shall provide such information prior to preparation of the annual budget of Hastings Utilities;

6. That the Chamber shall support legislative positions consistent with the interest of local businesses and Hastings Utilities;

7. That the Chamber in its presentations of the advantages and strengths of the City of Hastings and of Adams County shall promote Hastings Utilities as a supporter of the Chamber and as a good corporate citizen in those communities.;

8. That during the duration of this Agreement the Chamber shall name to its Retail Oversight Committee two (2) members of the Board of Public Works designated by the Chairman of the Board and confirmed by the Board;

9. That the Mayor and City Council of the City of Hastings shall continue to support the efforts of Hastings Utilities and of the Chamber to promote economic development and commercial activity in the City of Hastings and in Adams County and shall continue to support actions taken by the Board of Public Works to achieve the goals of economic development and commercial activity.

Moved by Goebel seconded by Niemeyer to pass and approve Resolution 2015-34.

Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None.

Absent: None. The motion carried.

#### **RESOLUTION NO. 2015-35**

WHEREAS, the Board of Public Works has been created by ordinance under statutes of the State of Nebraska by the Mayor and Council of the City of Hastings for the purpose of directing and supervising the operation of Hastings Utilities, a proprietary function of the City of Hastings, in the delivery of all utility services, including water, sewer, electricity and natural gas, to residents, businesses and industries of the City of Hastings; and,

WHEREAS, Hastings Economic Development Corporation (HEDC), a not-for-profit local development corporation organized and existing under the statutes of the State of Nebraska, has been created for the purpose of encouraging immigration of new residents to the City of Hastings and Adams County, for bringing new industries to the City of Hastings and Adams County and for encouraging investment in the City of Hastings and Adams County and the business, industries and institutions located therein; and,

WHEREAS, Hastings Utilities provides utility services to all ratepayers on the basis of the cost of producing and delivering each utility service and the cost of each service is reduced for all ratepayers by delivery of services to large industrial ratepayers whose use of utility services is constant on a daily, monthly and annual basis; and,

WHEREAS, since its creation in 1973 HEDC has successfully promoted the growth of business and industry already located in the City of Hastings and Adams County and has persuaded other companies to locate new business and industries in the City of Hastings and Adams County which have become major consumers of utility services provided by Hastings Utilities; and,

WHEREAS, through the economic development promoted by HEDC Hastings Utilities has increased its capacity to serve ratepayers and has reduced rates for utility services without the expense of creating and funding its own economic development office; and,

WHEREAS, by virtue of prior Agreements between the Board and HEDC, Hastings Utilities has contributed regularly together with Adams County and many private companies and individuals to HEDC for the purpose of promoting the goals for which HEDC was created; and,

WHEREAS, it is in the interest of Hastings Utilities and its ratepayers and of the City of Hastings to continue support of economic development through HEDC by maintaining the Board's financial contribution to the annual budget of HEDC; and,

WHEREAS, the City Council of the City of Hastings is authorized under the provisions of Section 13-315 of the Revised Statutes of the State of Nebraska to expend revenue received from any of its proprietary functions to carry out the purposes for which HEDC was created through a local development corporation such as HEDC;

WHEREFORE, in consideration of the foregoing recitals and of the continued benefit of the operation of HEDC to Hastings Utilities and to the City of Hastings, be it hereby resolved by the Mayor and City Council of the City of Hastings:

1. That the Board of Public Works of the City of Hastings is hereby authorized to expend the amount of \$125,000 for the benefit and support of HEDC during 2016.
2. That HEDC shall continue to exercise its best efforts to promote the purposes for which it was created and to solicit major industrial and commercial consumers to locate businesses and plants in the City of Hastings and Adams County which will make constant use of services provided by Hastings Utilities;
3. That Hastings Utilities shall continue to cooperate with HEDC in the exchange of information which will attract qualified businesses to the City of Hastings and Adams County;
4. That HEDC shall continue to develop commercial areas having infrastructure requiring services provided by Hastings Utilities;
5. That HEDC shall provide annual reports to the Board of Public Works concerning economic development activities in the City of Hastings and Adams County and concerning the use of the annual investment of Hastings Utilities and shall provide such information each year prior to preparation of the annual budget of Hastings Utilities;

6. That HEDC shall support legislative positions consistent with the interests of local businesses, of the City of Hastings and of Hastings Utilities;

7. That HEDC in its presentations of the advantages and strengths of the City of Hastings and Adams County shall promote Hastings Utilities as a supporter of HEDC and as a good corporate citizen in those communities;

8. That, during the duration of the Agreement between HEDC and the Board of Public Works and the City of Hastings, HEDC shall name to its Board of Directors (2) Class A members designated by the Chairman of the Board of Public Works and confirmed by the Board of Public Works and one (1) Class B member designated by the Chairman of the Board of Public Works and confirmed by the Board of Public Works and to the Executive Committee of HEDC two (2) permanent members designated by the Chairman of the Board of Public Works and confirmed by the Board of Public Works;

9. That the Mayor and City Council of the City of Hastings shall continue to support the efforts of Hastings Utilities and HEDC to promote economic development in the City of Hastings and Adams County and shall continue to support actions taken by the Board of Public Works to achieve the goals of economic development.

Moved by Odom seconded by Niemeyer to pass and approve Resolution 2015-35.

Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None.

Absent: None. The motion carried.

#### **RESOLUTION NO. 2015-36**

**BE IT RESOLVED** by the Mayor and Council of the City of Hastings, Nebraska (the "City"), as follows:

Section 1. The Mayor and Council of the City hereby find and determine that it is necessary and appropriate to declare on behalf of the City the official intent of the City to issue tax-exempt bonds and in addition, to declare the reasonable expectations of the City to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2. This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond proceeds provided is as follows:

Capital improvements to the City's Combined System to be made during 2016 pursuant to the City's Six-Year Capital Improvements Program (Gas, Water, Pollution Control, and Street Lighting Departments), or otherwise, including, without limitation, additions, improvements, extensions and reconstruction of existing facilities, new gas, water and sewer mains, vehicles and other equipment.

2. The maximum principal amount of debt expected to be issued for such project is \$7,400,000.

Moved by Skutnik, seconded by Hoops to pass and approve Resolution 2015-36.

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

### **RESOLUTION NO. 2015-33**

WHEREAS, the Board of Public Works has approved the 2016 Hastings Utilities Budget and recommended approval to the Hastings City Council; and

WHEREAS, the Hastings City Council has held a public hearing on the 2016 Hastings Utilities Budget in accordance with Neb. Rev. Stat. 18-2801 et. seq.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HASTINGS, NEBRASKA:

1. The 2016 fiscal year budget of Hastings Utilities beginning on January 1, 2016, a copy of which is attached hereto and made a part of this resolution, is hereby approved.
2. By adoption of the 2016 Capital Budget the Board of Public Works is hereby authorized to acquire all necessary right-of-way easements or other contracts in land by purchase, if possible, or by condemnation, if necessary, for those projects included in the 2016 Capital Budget.
3. The Board of Public Works is hereby authorized to advertise for bids for any capital projects included in the 2016 Hastings Utilities Budget in accordance with state statutes.
4. The Board of Public Works is hereby authorized to implement the Hastings Utilities Pay Schedules which are part of the approved budget and are hereby approved. These pay schedules reflect a 2.93% increase for the year 2016.

Moved by Goebel seconded by Krings to pass and approve Resolution 2015-33.

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

Moved by Harrington, seconded by Niemeyer for the approval of awarding bid to Hastings Ford Lincoln, 3101 Osborne Drive West, Hastings, Nebraska, for two 2016 Ford Explorer, Police Interceptors in the amount of \$54,500.00. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. Absent: None. The motion carried.

Moved by Niemeyer, seconded by Duval for approval of awarding bid to Heartland Concrete & Construction, Inc., 421 W. Lochland Road, Hastings, Nebraska, in the amount of \$56,787.66 (Base Bid \$45,657.45 & Alternate #2 \$11,130.21) for Project No. LIBPARK-2015, Libs Park parking lot paving/sidewalk replacement. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. Absent: None. The motion carried.

Moved by Krings, seconded by Skutnik that the Mayor and Council go into Executive Session at 7:04 P.M. for real estate negotiations. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Moved by Niemeyer, seconded by Skutnik that the Mayor and Council go out of Executive Session into Regular Session at 7:32 P.M. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Krings, Hoops, Skutnik, Goebel. Nays: None. The motion carried.

Moved by Niemeyer, seconded by Skutnik there being no further business to come before the Council, the meeting adjourned at 7:32 P.M. Roll Call: Ayes: Harrington, Duval, Odom, Niemeyer, Skutnik, Goebel. Nays: None. Absent: Krings, Hoops. The motion carried.

APPROVED:

\_\_\_\_\_  
Vern P. Powers, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly S. Jacobitz, City Clerk

( S E A L )