Call to Order – Hebert called the meeting to order at 7:00 pm.

Hebert admitted certified copies of Chapters 11, 26 and 31 of the Code of Ordinances into evidence.


Quorum is present. Five members constitute a quorum.

Minutes of the Meeting, December 20, 2018 –

Boyer stated there was a typo in the minutes from December 20, 2018. The term expiration shown for her states 2019, should be 2023

Vaughn made a motion to approve the minutes as corrected from December 20, 2018. Burtnett seconded.


Ayes – 4, Nays – 0, Abstain-3  Minutes approved.
Postponements/adjustments to the agenda –

None

Unfinished Business-

None

New Business-

Penland made a motion to move item #1 Election of Officers to the end of the agenda. Vaughn seconded

Hebert read the rules of conduct.

Vote on the motion to move Item #1 to end of agenda

Ayes – 7, Nays – 0, Abstain-0   Motion approved.

ITEM #2 Amendments to Chapter 31 of the Municipal Code – Amend Chapter 31-054 and any and all other sections of Chapter 31 of the Code of Ordinances necessary to amend and clarify the fence code.
Ordinance amendments are forwarded to the City Council.
Staff recommendation: approval

Hutchison gave the staff report.

Penland asked Hutchison what was the reason was for the amendment

Hutchison responded the reason for the amendment was to ensure adequate open space between non-conforming structures.

Penland asked if there was someone in particular behind the request of if it was made by city staff.

Hebert stated she was behind the request. Hebert spoke about the ability to use a ladder to perform home maintenance on properties that may have a reduced side yard setback. Hebert used historic properties as an example. Hebert stated there have been some citizen complaints and there is nothing in the codes to protect their ability to maintain their property.

Boyer asked if all existing fences would be grandfathered.

Hebert responded absolutely
Burtnett asked if a firetruck would be able to go in turn around and come back out.

Hutchison responded a firetruck would exceed the minimum setback of 6’. Hutchison stated the proposed amendment is for the side yard and typically the fire fighters would access a property through the front or rear.

Boyer stated she recalled being told by a firefighter a fence would not prevent them from fighting a fire

No one spoke in favor.

No one spoke in opposition.

Penland asked for clarification that the proposed amendment was only for the side yard.

Hutchison stated it is only referring to the side yard.

Tritten made a motion to approve the item. Vaughn seconded.

**VOTE:** Tritten –yes, Penland – yes, Catron – yes, Burtnett-yes, Vaughn – yes, Hebert –yes, Boyer-yes.  
Ayes – 7, Nays – 0, Abstain-0  Motion approved.

**ITEM #3**  **Conditional Use Permit** – A request for approval of a conditional use permit to allow construction and operation of an asphalt plant and associated material storage on the property located at 224 W Iowa Street as requested Craig Strong. The property is currently zoned M-2, Heavy Manufacturing District.  
Conditional Use Permits are forwarded to the City Council.  
Staff recommendation: denial

Hutchison gave the staff report. Hutchison informed commission members the handout he provided prior to the meeting was the city’s code regarding the imposition of conditions should they choose to do so.

Penland asked if staff has previously met with the applicant

Hutchison responded there have been ongoing discussions with the applicant. The applicant is aware if he shifts the proposed facility 300 feet from the residential property a conditional use permit would not be required.

Hebert asked for clarification

Hutchison responded if the facility were shifted 300’ to the northeast (approximate) a buffer would be created between the proposed asphalt plant and the residential neighborhood.
Hebert asked why that couldn’t happen.

Hutchison responded spatial limitations of the property. Hutchison stated the applicant currently operates a waste disposal facility on the other side of Iowa Street.

Craig Strong-209 W Iowa spoke in favor of the item. Strong stated he currently owns a lot of the properties in the area of the facility. Strong stated he is a long time resident of the area. The area is run down and needs a change. He hopes to bring an energy facility in that would handle trash, tires, cook asphalt, and help keep Herzog honest, etc. Strong stated calls for crime are down in the area and jobs are needed in the area too. Strong stated he brings recycling and a lot of other jobs. Strong stated eventually he wants to own some of that directly behind where the plant would sit. Strong stated he could move some of his stockpiles. Strong stated it’s really to give back to the city more than anything else.

Penland asked if Strong has communicated with his neighbors

Strong responded one guy is fine with it, everybody else seemed to be fine with it, there might be a few people here tonight that aren’t fine with it but they would be more towards Lake Avenue.

Burtnett asked if the asphalt plant would create a smell

Strong responded it would be the same as laying it down in the street.

Boyer stated her biggest concern is the air quality. Boyer stated she was concerned the amount of smoke, etc would not be within the limitations allowed.

Strong responded it would. The facility is Keller’s old asphalt plant that has cooked there for years. Strong stated the facility would be regulated by the DNR

Hutchison clarified what Boyer was referring to is the Ringlemann Chart index. Hutchison stated the staff report states the facility would be in compliance

Strong stated the area stinks already

Boyer stated she wasn’t concerned with the odor; she was concerned with the quality of the air.

Strong responded it wouldn’t cook any more than two trains together and would be up to the DNR.

There was discussion between commissioners and Strong regarding the lots he currently owns and the lots he intends to eventually purchase.

Hutchison refers commission member to page five of the staff report for a map of the properties owned by Strong as well as the properties own by Strong which the GIS has not updated yet. Hutchison also points out the 300’ boundary indicated on the map.
Burtnett asked if Strong was wanting to vacate a portion of Iowa Street

Strong responded yes all the way up to where you would see that shop, with gates and fences put in and all the way down the alley but you could still get down the alley.

Hutchison stated the vacation portion is not up for consideration by the planning commission tonight. Consideration for vacation will occur at a later date.

Burtnett stated there is not a lot down in the area.

Strong agreed stating he would like to put in a gas station in the future

Burtnett asked which lot the recycling plant was located

Strong stated he doesn’t have a picture to show of it

Hutchison referred the commissioners to page five of the staff report. The recycling plant is shown on the map to the north of Division Street.

Strong stated he wants to vacate Division too. Strong stated in order to be able to make it work he would like to sort off of 59 Highway, near where the mechanic’s shop is located. Strong stated he did not anticipate a lot of business to start off with. It would need to grow.

Burnett stated there isn’t a lot that could be done in that area.

Strong stated he bought the block from his Aunt who had waited 20 or 30 years for something to come in and nothing ever did.

Hebert stated the conditions recommended with the staff report, parking lot, lighting, etc

Strong stated he has a working office on the property.

Hebert continued outdoor storage shall be enclosed, parking of equipment to avoid rodents, appropriate parking lot lighting,

Hutchison clarified the conditions mentioned by Hebert are conditions specific to this request. They are conditions associated with the Heavy Manufacturing zoning district.

Hutchison stated he provided the commissioners with a handout of City Ordinance 31-70 (g) which does allow for the imposition of conditions if the commissioners feel there is something that needs to be mitigated. Hutchison gave the example of a buffer or the relocation of a storage facility to make the use more compatible with adjacent properties. Hutchison stated staff’s position of not wanting to create a nuisance for the neighbors—dust, noise, odor, etc.

Hebert asked if the area was already zoned M-2 and it would be up to staff
Hutchison clarified number 1 on the staff report begins the performance standard for the request. The handout provided specifies the code which states if there were additional conditions the commissioners feel should be put into place above what the performance standards state they are allowed to do so.

Boyer states she doesn’t see the conditions

Penland directs Boyer to the handout stating the hand out is the additional conditions available

Hebert directs Boyer to page 3 of the staff report

Herbert asks Hutchison if what are listed under the analysis are the conditions

Hutchison clarifies it is a performance standard associated with the zoning district. It is something required by code. A condition would be something staff or the commission is asking to be imposed beyond the performance standard listed in the staff report.

Hebert asked if it would be up to staff to enforce the codes

Hutchison responds correct

Penland clarified what the planning commission is tasked with is if they want to allow a conditional use report or not because the closest resident is 95’ vs 300’ away.

Hebert asked if any property owners were present and if they would like to speak

Elo instructed Hebert to open the meeting to any possible property owners who would like to speak for or against the item

Shawn Duke-802 Francis-spoke in favor of the item. Duke explained the location of the asphalt facility was chosen to be functional based on its proximity to the rail tracks. Access to rail tracks is key. The drawing is conceptual and the storage bins could perhaps be moved a little bit further away. In general the facility would meet DNR requirements. Duke stated the DNR would require Strong to get permits and ensure requirements were met.

Kent O’Dell-2701 Pear-spoke in favor of the item. O’Dell has met with Strong 3 or 4 times and he has always been for the betterment of St. Joseph. O’Dell states the location is very feasible and appealing as having another asphalt plant would better the city and provide more competition. O’Dell states there aren’t too many places in town you can put an asphalt plant and the town needs more competition.

Sabrina Davis Campbell-233 W Nebraska (directly behind the proposed asphalt plant), 235 W Nebraska-spoke in opposition. Campbell states she tremendously opposed the asphalt plant. Area needs to be redeveloped but does not need an asphalt plant. Campbell stated her family has owned the property for 62 years. The area would be better served with low to middle income housing
instead of something that would destroy the neighborhood. Campbell would like to see the neighborhood go back to where families could come together.

Burtnett asked Campbell if she currently lives in the properties

Campbell responded her ex-husband lives at one location and she lives at the other but she owns both.

Penland states he agrees with everything Campbell has said. Penland informed Campbell the area is currently zoned heavy manufacturing so the asphalt plant and other manufacturing facilities in that classification would be allowed.

Campbell asked why she wasn’t notified of the rezoning

Penland stated he did not know when the property was zoned heavy manufacturing but would assume it has been that way for quite some time.

Hutchison responded he did not have the zoning history with him. The reason for the Heavy Manufacturing zoning is because the property is adjacent to rail track. The future land use plan which was done in 2009 actually refers to the property as being Commercial which serves as a transition from Heavy Manufacturing to Residential.

Campbell questioned the effects of the air quality if the asphalt plant was allowed to operate.

Penland responded the facility would have to meet DNR regulations

Campbell stated she didn’t believe people’s health would be protected

Boyer asked what Campbell property was currently zoned

Hutchison responded M-2 Heavy Manufacturing because of the application of Heavy Manufacturing zoning to all properties within 200’ of railroad corridors.

Boyer stated she read or was recently made aware of if a home within an M-2 district burns or is destroyed a certain percentage the occupant would not be allowed to rebuild. Hutchison responded correct they would have to rezone the property.

Boyer asked if that was the situation Campbell is in now

Hutchison responded correct. The area Campbell lives in is a part of St George’s addition and is one of the original residential subdivisions of St. Joseph.

Vaughn asked Campbell to clarify the location of the property she owns
There was discussion among commissioners on which properties were vacant and which were occupied.

Lawrence Paige-Olathe, KS-owns property located at 214 W Iowa-spoke in opposition to the item. Paige stated he has questioned City representatives over the years why there has been one development in the south end. The area has been left to die off. He recently became aware there was a company building trucks on property he owns and he was never notified.

Burtnett asked Paige which lots he owns.

Paige responded he owns 214 Iowa and 122 Division

Burtnett advised if someone was on his lot illegally he should notify the police department

Dick Campbell-lives in Deer Park but owns property in the area affected by the asphalt plant-spoke in opposition. Has been hearing promises from the City regarding the cleaning up and redevelopment of the area but nothing ever happens. Campbell wants to see the area and the town prosper. Campbell wants to see the citizens prosper. Campbell stated every place you see large quantity of rental you see the neighborhood going down.

Hebert stated the commission agrees with what Campbell has expressed and the commission is trying to work on things that would help the area.

Campbell stated he hopes the commission succeeds.

Catron stated her in-laws are in the process of owning property at 220 W Iowa therefore she may need to recuse herself. Catron conferred with Elo.

Tritten asked if the entire block of Iowa and Nebraska is zoned M-2

Vaughn asked where the M-2 area is

Hutchison refers commissioners to the map included with the staff report. Hutchison stated this is the same situation as the city initiated rezoning the commission just heard regarding residential property adjacent to rail line therefore zoned M-2.

Vaughn stated he agrees with the opposition comments and clarified what the commission is looking at today is the distance away from the asphalt plant.

Vaughn stated the problem he has is if any of the house get burned down or destroyed they would be unable to rebuild. The house would simply be gone.

Hutchison responded they would be able to rebuild and there are exceptions to it as well as far as extent and nature of the damage
Penland stated they would have to rezone

Burtnett asked if the whole area could be rezoned

Vaughn asked if Residential and M-2 could be right next to each other

Hutchison stated to can rezone a property to any classification but it is best practice to have a separation. Hutchison stated the purpose of zoning is to protect the community’s health, safety and welfare. What is being asked tonight is if this asphalt plant is impacting any of those things.

Catron stated for the record she would need to recuse herself.

Penland asked Strong if it would be possible that he set down with staff and find a way to move the proposed facility so it would not require the Conditional use permit

Strong responded no, it would not. The area he has to the north is for recycling. There is a church in the area and he would like to rebuild. Strong stated the man that spoke last indicated he wanted to retire.

**Conversation in audience away from microphone**

Duke stated they had met with city staff early in the process to find a way not to have to seek a conditional use permit and it is not feasible.

Burtnett stated he would value his neighbors more than the new development. Burtnett stated he would not like to infringe on neighbors.

Hebert stated it’s a fine balance as both property owners have rights. Hebert stated she felt Duke made a valid point regarding the property being served by railway

Boyer asked if this would go to the City Council regardless of what the commission recommends

Hebert responded yes

Vaughn asked if the vote was no would it go on to council

Hutchison respond if the commission recommends denial the applicant has the opportunity to resubmit.

Burtnett made a motion to deny the conditional use permit. Tritten seconded

Hebert clarified a yes vote would be a vote to deny the request.

Boyer stated she is still concerned with the air quality and the effect it would have on the health of the neighborhood. Boyer asked Duke what restrictions MoDNR would put on the asphalt plant.
Duke stated he was unsure of the exact requirements

Hutchison stated he did reach out to the DNR regarding concerns but did not receive any response

Boyer stated she recognized the dilemma with property in M-2 zoning but also being a historically residential area

Hebert stated many years ago there were residential and M-2 together but now our codes state when residential is adjacent to M-2 there needs to be a 300’ buffer. The asphalt plant would be required to meet DNR standards and if they don’t they would not be allowed to operate. It’s not up to us to decide whether it would meet their standards. It is up to us to allow – or not- this asphalt plant to operate within 95’ of a residence.

Boyer asked if this was only their first step, the planning commission would be allowing them to take the first step

Hebert responded yes

Vaughn asked if we vote yes we are actually voting no

Hebert responded correct because Burtnett moved to deny. If you vote no you are saying yes I want to approve it.

Penland asked if we (the planning commission) have to pose the motion towards the finding of facts that are listed.

Hebert stated this is a conditional use permit not a variance so we’re not doing a finding of fact

Penland stated the staff report is just fact and analysis for each statement

Hebert responded correct

Hebert stated the motion is to deny and we have a second. If you agree that you want to deny it you would vote yes

Hutchison stated in the findings and analysis if the commission doesn’t find any of the information to be true then that would need to be changed in support of the CUP.

Hebert stated she found them to be true but she found them to be more code enforcement than issues of what we’re voting on.

**VOTE:** Tritten –yes, Penland – no, Catron – recuse, Burtnett–yes, Vaughn – no, Hebert –no, Boyer–no.
Ayes – 2, Nays – 4, Recuse-1  Motion denied.
Hebert stated there were 4 no’s, 2 yeses and one abstain. Hebert asked Elo if that passes

Elo stated that is a recommendation for approval to the commissioner on a 4-2 vote

Hebert stated the vote is to approve the CUP

ITEM #4  **Minor Subdivision** – A request for approval of a minor residential subdivision entitled Woodbine Meadows, located at 102 S Woodbine Road, as requested by Will Markel.

Minor subdivisions are approved or denied by the Planning Commission

Staff recommendation: approval

Hutchison gave the staff report.

Hebert asked Hutchison if 50% constructions drawing weren’t being required on this one

Hutchison responded the applicant submitted 60% construction drawing.

Boyer asked if this was intended to be housing for senior citizens

Hutchison responded correct

Steven Briggs-400 Jules-spoke in favor of the item. Briggs stated represents Woodbine Meadows LP which is the developer of this project. His client has had 5 other senior housing projects in town plus the Townsend & Wall project all having an excellent history. Briggs stated staff recommended approval of this project several months ago during predevelopment meetings and has an excellent working relationship with the city.

Hebert asked if a housing assessment has been done

Briggs stated they have received a letter of support from the City Council and have waiting list on all of their other projects

Hebert stated she was present in work sessions when those were presented and several in attendance stated they would choose to revitalize existing neighborhoods before building new housing.

Hebert asked where are the people coming from. Hebert stated she believes this is having an impact on existing areas and would ask for consideration for going into an existing neighborhood and developing what is already there. Hebert stated this is a big concern for her.

Briggs responded he would take her concerns back to his client

No one spoke in opposition.
Burtnett made a motion to approve. Penland seconded.

Ayes – 7, Nays – 0, Abstain–0  Motion approved.

ITEM #1  Election of Officers

Penland made a motion to nominate Hebert as Chairman and Boyer as Vice Chair. Tritten seconded

Elo stated only one person at a time can be nominated

Penland made a motion to nominate Hebert as Chairman. Tritten seconded.

No other names were nominated for Chairman.

Ayes – 7, Nays – 0, Abstain–0  Motion approved.

Penland made a motion to nominate Boyer as Vice Chair.

Burtnett made a motion to nominate Hauser as Vice Chair

Boyer stated she wished to withdraw her name as Vice Chair. Boyer stated she felt Hauser was more qualified.

Catron seconded the motion to nominate Hauser as Vice Chair

Ayes – 7, Nays – 0, Abstain–0  Motion approved.

Hebert stated she felt the work session prior to the planning commission was helpful.

There was discussion among the commissioners regarding public comments after decision and vote had been reached.

The meeting adjourned at 8:36pm.

Minutes respectfully submitted,

Rebecca Shipp