

CITY OF NORFOLK, NEBRASKA

The Mayor and City Council of the City of Norfolk, Nebraska met in regular session in the Council Chambers, 309 North 5th Street, Norfolk, Nebraska on the 16th day of June, 2014, beginning at 5:30 p.m.

Following a moment of silence and the Pledge of Allegiance to the flag of the United States of America, Mayor Sue Fuchtman called the meeting to order. Roll call found the following Councilmembers present: Jim Lange, Rob Merrill, Shane Clausen, Thad Murren, Dave Fauss, and Dick Pfeil. Absent: Josh Moenning.

Staff members present were: City Administrator Shane Weidner, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Finance Officer Randy Gates, Wastewater Plant Superintendent Todd Boling, Information Systems Manager Jim McKenzie, Administrative Secretary Bethene Hoff, Assistant City Engineer Mark Dolechek and Economic Development Director Courtney Dentlinger.

The Mayor presided and the City Clerk recorded the proceedings.

The Mayor informed the public about the location of the current copy of the Open Meetings Act posted in the City Council Chambers and accessible to members of the public.

Notice of the meeting was given in advance thereof by publication in the Norfolk Daily News, Norfolk, Nebraska, the designated method of giving notice, as shown by affidavit of publication.

Notice was given to the Mayor and all members of the Council and a copy of their acknowledgement of receipt of notice and agenda is attached to the minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

Agenda Motions

Councilmember Merrill moved, seconded by Councilmember Lange to approve the consent agenda as printed. Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried.

Councilmember Murren moved, seconded by Councilmember Merrill to adopt the full agenda as printed. Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried.

Consent Agenda Items Approved

Minutes of the June 2, 2014, City Council meeting

Resolution No. 2014-15 approving the final plat of Berry Hill 16th Addition, an 11-lot subdivision located on Pinnacle Drive/Marconnit Circle, and its accompanying subdivision agreement

Resolution No. 2014-16 approving the final plat of Lakeview 4th Addition, a 2-lot subdivision at 26th Street and Lakeridge Drive, and its accompanying subdivision agreement

Elkhorn Logan Valley Public Health Department (a County Public Health Service approved by the Nebraska Department of Health and Human Services) agreement to use Central Park to hold Tai Chi classes twice a week from July 15, 2014, to August 27, 2014, from 9:15 a.m. to 11:15 a.m.

Special Designated Liquor License for the Norfolk Area Chamber of Commerce Foundation to serve beer and wine at the Norfolk Area Chamber of Commerce (back parking lot), 609 W Norfolk Avenue, on Friday, September 26, 2014 from 4:00 p.m. to 1:00 a.m., and on Saturday, September 27, 2014 from 12:00 noon to 1:00 a.m., for a beer garden

Plans, specifications, and engineer's estimate on file in the City offices for the Trails 2014-2 (Flood Control to Bluff Avenue) project and authorization for the City Clerk to advertise for bids

Special Designated Liquor License for Fine Wine, LLC, dba Jim's Fine Wine & More, 2001 Market Lane, to serve beer and wine at Midwest Music Center, 311 West Norfolk Avenue, Norfolk, Nebraska, on Wednesday, July 16, 2014 from 4 p.m. to 8:30 p.m., for a sampling/tasting event

Purchase of a 2014 Ford F150 SuperCrew 4x4 pickup for the Police Division from Courtesy Ford, Norfolk for \$31,610.00, which is below the State of Nebraska contract price

Purchase of a 2014 Ford F150 regular cab 4X4 pickup for the Public Works Department from Courtesy Ford, Norfolk for \$22,567.00, which is below the State of Nebraska contract price

Purchase of a 2015 Ford F250 regular cab 4X2 pickup for the Public Works Department from Courtesy Ford, Norfolk for \$20,346.00, which is below the State of Nebraska contract price

Purchase of a 2015 Ford F250 regular cab 4X4 pickup for the Public Works Department from Courtesy Ford, Norfolk for \$24,195.00, which is below the State of Nebraska contract price

Bills in the amount of \$1,654,914.55

Special Presentations

The Mayor proclaimed for the week of August 14-17, 2014 as "Nebraska Vietnam Veterans Appreciation Week".

Public Hearings and Related Items

Public Hearings

(amend Comprehensive Plan & zone change)
(2001 NE Industrial Highway)

Public hearings were held simultaneously to consider the feasibility of amending the present Comprehensive Plan from agriculture/open space to industrial and changing the zoning from A (Agricultural District) to I-2 (Heavy Industrial District) at 2001 NE Industrial Highway at the

request of Nucor Corporation. City Administrator Shane Weidner provided information to the Mayor and City Council. Weidner explained the proposed changes are for the new tubing industry (Tejas Tubular) locating near Norfolk, as well as to bring property into compliance with its use.

On June 3, 2014, the Norfolk Planning Commission held public hearings regarding the feasibility of amending the present Comprehensive Plan and zone change at 2001 NE Industrial Highway. The City Clerk read the Planning Commission's recommendations for approval into the record.

No one appeared either in favor of or in opposition to the City code amendments to clarify that various maps required to be approved by the City are to be approved by and the Mayor declared the hearing closed.

Ordinance No. 5295

(Comprehensive Plan amendment, 2001 NE Industrial Highway)

Councilmember Lange introduced, seconded by Councilmember Merrill, Ordinance No. 5295 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. Ordinance No. 5295 passed on first reading.

Councilmember Lange moved, seconded by Councilmember Fauss, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilmember Lange moved, seconded by Councilmember Fauss, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Mayor then stated the question "Shall Ordinance No. 5295 be passed and adopted?"

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5295 as required by law.

Ordinance No. 5296
(zone change, 2001 NE Industrial Highway)

Councilmember Merrill introduced, seconded by Councilmember Lange, Ordinance No. 5296 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. Ordinance No. 5296 passed on first reading.

Councilmember Lange moved, seconded by Councilmember Merrill, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilmember Lange moved, seconded by Councilmember Merrill, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Mayor then stated the question "Shall Ordinance No. 5296 be passed and adopted?"

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5296 as required by law.

Public Hearing
(Citizen Advisory Review Committee semi-annual report)

A public hearing was held to receive a report on findings and suggestions from the economic development Citizen Advisory Review Committee (CARC) as required by State Statutes Section 18-2715. Finance Officer Randy Gates provided information to the Mayor and City Council.

State Statutes require a Citizen Advisory Review Committee (CARC). The citizens serving on committee are: Bill Canham, Cindy Morrow, Jim Mangels, Aaron Otten, and Jan Einspahr and the City's Finance Officer serves as an ex officio non-voting member. As required by State Statutes, the CARC met on June 3, 2014 and discussed/reviewed the following:

- Review current funding of the City's Economic Development Fund (ED)
- Update on Petersen Ag project

- Update on Tejas Tubular project
- Economic Development update
- Consideration of CARC findings and suggestions for the public hearing at the June 16, 2014 Council meeting

As noted in the report, the CARC found that the City's Economic Development Program (EDP) is operating in compliance with the budget and EDP Guidelines and Procedures.

No one appeared either in favor of or in opposition to the CARC findings and suggestions and the Mayor declared the hearing closed.

No action was needed on this item.

Public Hearing

(Off Road Ranch zone change, 2900 Old Highway 8)

A public hearing was held to consider a zone change from A (Agricultural District) to I-1 (Light Industrial District) at 2900 Old Highway 8 at the request of Kevin Signor (Off Road Ranch, LLC).

At the request of a Stanton County resident who was unable to attend the meeting due to tornado activity in the area, City Administrator Shane Weidner requested the public hearing be continued until the July 7, 2014 City Council meeting. The applicant, Kevin Signor, agreed to the continuation.

Councilmember Merrill moved, seconded by Councilmen Murren to continue the public hearing to consider a zone change from A (Agricultural District) to I-1 (Light Industrial District) at 2900 Old Highway 8 at the request of Kevin Signor (Off Road Ranch, LLC) until the Monday, July 7, 2014 City Council meeting.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion to continue the hearing carried.

Ordinance No. 5297

(zone change, 2900 Old Highway 8)

Councilmember Merrill moved, seconded by Councilmember Lange to table consideration of Ordinance No. 5297, amending the zoning designation from A (Agricultural District) to I-1 (Light Industrial District) at 2900 Old Highway 8 until the July 7, 2014 City Council meeting.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion to table Ordinance No. 5297 carried.

Public Hearing

(CR grant application, \$150,000)

A public hearing was held to consider submitting a grant application in the amount of \$150,000 to the Nebraska Department of Economic Development for a Community Development Block

Grant for community revitalization activities. Tom Higginbotham, Executive Director of the Northeast Nebraska Economic Development District, provided information to the Mayor and City Council.

The City of Norfolk is requesting \$150,000 of CDBG funds for Phase II Comprehensive Revitalization activities in the targeted area including \$81,000 for 12” water main reconstruction under Madison Avenue between 1st and 7th Streets; \$50,000 for single-family housing rental rehabilitation; \$4,000 for housing management; \$3,000 for lead based paint risk assessment/testing; and \$12,000 for general administration of the project. The City of Norfolk will provide a minimum of \$81,000 in match funds toward the water main reconstruction, with property owners participating in the housing rental rehabilitation program providing \$50,000 in match funds toward the housing program. All CDBG projects and match will be completed in the target area. The total estimated project cost for this phase is \$281,000. This project will benefit at least 51% low-to-moderate income individuals. There will be no persons displaced as a result of the CDBG activities.

Rick Wipperling, 407 S 2nd Street, Norfolk, Nebraska, spoke about concerns with “opportunity costs.”

No one else appeared either in favor of or in opposition to the grant application and the Mayor declared the hearing closed.

Resolution No. 2014-17
(CR grant application, \$150,000)

Councilmember Lange moved, seconded by Councilmember Pfeil, to adopt Resolution No. 2014-7 approving a grant application to the Nebraska Department of Economic Development requesting \$150,000 of CDBG funds for Phase II Comprehensive Revitalization activities and authorizing the Mayor to execute any and all documents related to the grant.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. Resolution No. 2014-17 was adopted.

Public Hearing
(East Norfolk Avenue Redevelopment Area, Blighted & Substandard)

A public hearing was held to consider a blighted and substandard designation for the area referred to as East Norfolk Avenue Redevelopment Area for the area generally located south of Benjamin Avenue to just south of Norfolk Avenue, along either side of Victory Road.

Courtney Dentlinger, Economic Development Director, and Tom Higginbotham, Executive Director of the Northeast Nebraska Economic Development District (NENEDD), provided information to the Mayor and City Council. NENEDD completed the study to determine if all or part of the designated study area is substandard and blighted. The study identified the presence of two substandard factors (dilapidation/deterioration and age or obsolescence), and five blighted criteria (substantial number of deteriorated or deteriorating structures; existence of defective or inadequate street layout criteria; unsanitary or unsafe conditions; deterioration of site or other improvements; and average age of residential or commercial units in the area). Having met the substandard and blighted criteria, as defined by Nebraska State Statute, the study determines that

the area defined as the East Norfolk Avenue Redevelopment Area is both substandard and blighted.

The Norfolk Planning Commission held a public hearing on June 3, 2014 and the City Clerk read the Planning Commission's recommendation for approval into the record.

No one else appeared either in favor of or in opposition to the blighted and substandard designation and the Mayor declared the hearing closed.

Resolution No. 2014-18
(East Norfolk Avenue Redevelopment Area, Blighted & Substandard)

Councilmember Lange moved, seconded by Councilmember Merrill, to adopt Resolution No. 2014-18 declaring the area generally located south of Benjamin Avenue to just south of Norfolk Avenue, along Victory Road, referred to as "East Norfolk Avenue Redevelopment Area", as blighted and substandard.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. Resolution No. 2014-18 was adopted.

Regular Agenda Items

Big Bang Boom agreement

Councilmember Fauss moved, seconded by Councilmember Merrill, to approve an agreement with Big Bang Boom, Inc., a Nebraska Nonprofit Corporation, and J & M Displays, Inc., an Iowa Corporation, to use Skyview Park for various activities to celebrate the 4th of July, including but not limited to a fireworks display on Saturday, July 5, 2014.

City Administrator Shane Weidner stated Big Bang Boom would like to offer helicopter rides as a new activity during the celebration. City staff is working on a separate agreement for this activity which will require a \$5 million insurance policy and name the City of Norfolk, Nebraska as an additional insured to protect the community from additional liability.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried.

Black & Veatch Addendum for engineering services
(US Highway 81 Sewer Service Extension project)

Councilmember Lange moved, seconded by Councilmember Merrill, to approve Addendum No. 1 to Amendment No. 22 with Black & Veatch for engineering services for the US Highway 81 Sewer Service Extension project resulting in an additional \$28,500.00.

Smith explained the amendment provides for professional services related to design and construction of a sanitary sewer service extension to an area along U.S. Highway 81 from the Elkhorn River south to Sherwood Road. This addendum incorporates additional services required during the design development phase of the project to change the intended sewer alignment and limits of the service extension. The additional services provided were: sanitary

sewer alignment and lift station site selection; regulatory agency and utility company requirements and permitting; field surveys and prepare base mapping; Geotechnical subsurface investigation; development of easements/right-of-way program; and prepare level 2 (90%) construction documents and input as follows: (A) additional 500 ft. extension east on Sherwood Road; (B) additional 1,100 ft. extension east on Bonita Drive; and (C) additional 1,000 ft. extension along U.S. Highway 81 south of Sherwood Road (reviewed but eliminated from further consideration). Total additional compensation is \$28,500.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried.

Ward 1 Council member resignation – Dale Coy

Councilmember Merrill moved, seconded by Councilmember Murren to accept the resignation of Ward 1 Council member Dale Coy effective June 6, 2014.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried.

Rutjens Construction contract
(Southwest Sanitary Sewer Interceptor, Phase 1 project)

Councilmember Lange moved, seconded by Councilmember Merrill, to award a contract to Rutjens Construction, Inc. for the Southwest Sanitary Sewer Interceptor, Phase 1 project, Alternate No. 1 in an amount of \$1,380,512.35.

Dolechek stated Rutjens' engineer is Kirkham Michael, who is recommending using clay pipe as opposed to plastic stating bedding is more critical for plastic pipe and the clay pipe can use native materials for bedding. A big difference with using clay pipe is that only about half the amount of soil is excavated and the project can move forward quicker.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried.

Industrial Process Technology contract
(grit pumping & washing equipment installation at WPC)

Councilmember Lange moved, seconded by Councilmember Fauss, to award a contract to Industrial Process Technology to install grit pumping and washing equipment at the Water Pollution Control Plant for the base bid amount of \$252,639.00, and to authorize the Mayor to sign any and all contracts and documents related to the project.

Four sealed bids were received on May 29, 2014 to furnish all labor, materials, equipment and all else necessary to properly construct all the improvements. The other bidders were: Christensen Construction Co, \$281,862.00; Rutjens Construction, \$289,840.00; and Eriksen Construction Co, \$320,000.00.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried.

Resolution No. 2014-19
(Country Club Estates 3rd Addition final plat)

Councilmember Merrill moved, seconded by Councilmember Lange, to adopt Resolution No. 2014-19 approving the final plat and accompanying subdivision agreement for Country Club Estates 3rd Addition, a three-lot subdivision between Benjamin Avenue and Country Club Drive east of the Medelman office building.

Dick Johnson, engineer for Paul Medelman, spoke to the issue. Smith and Medelman have been working on several issues for the development. Two issues have been resolved:

- (1) the subdivision agreement states Medelman will provide a drainage easement to the City of Norfolk once the lot is laid out; and
- (2) best management practices for water quality is also addressed in the subdivision agreement.

Two other issues, however, have not been resolved:

- (1) the City of Norfolk has standard subdivision agreement language, as follows: “The Developers agree to hold the City of Norfolk harmless from any liability and claims arising out of and relative to the development of this Subdivision, to and including, but not limited to, the determination of wetlands as defined in the Federal Clean Water Act and the Water Quality permits by the Nebraska Department of Environmental Quality” but Medelman wants “the determination of wetlands” language removed from the subdivision agreement; and
- (2) a water line was installed in that area years ago with a special assessment district but the Medelman property was not included in the assessment as it was “scrub” land between the original location of the North Fork of the Elkhorn River and the relocated river. City Code requires a charge of \$5/frontage foot, or approximately \$2,000, for Medelman to connect to the line but Medelman does not want to pay the connection fee.

City staff contends the hold harmless regarding the determination of wetlands language provides protection for the City and, if it is removed, the City would have to directly deal with the Corps of Engineers on issues related to wetlands. Also, City Code outlines the fee to connection to a water line and both issues need to be included in the subdivision agreement.

Councilmember Clausen moved, seconded by Councilmember Merrill to table consideration of Resolution No. 2014-19.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil.
Nays: None. Absent: Moenning. Motion to table carried.

Ordinance No. 5298
(wild birds or animals city code amendment)

Councilmember Murren introduced, seconded by Councilmember Lange, Ordinance No. 5298 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 4-5 OF THE OFFICIAL CITY CODE TO UPDATE REFERENCES TO NEBRASKA STATUTES THAT HAVE BEEN RELOCATED; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. Ordinance No. 5298 passed on first reading.

Councilmember Fauss moved, seconded by Councilmember Pfeil, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilmember Fauss moved, seconded by Councilmember Pfeil, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Mayor then stated the question "Shall Ordinance No. 5298 be passed and adopted?"

Roll call: Ayes: Councilmembers Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Absent: Moenning. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5298 as required by law.

Public Comment Period

No comments were received during the public comment period.

There being no further business, the Mayor declared the meeting adjourned at 7:00 p.m.

Sue Fuchtman
Mayor

ATTEST:

Elizabeth A. Deck
City Clerk

(S E A L)

I, the undersigned Clerk, hereby certify that the foregoing is the full, true and correct original document of proceedings of Monday, June 16, 2014, had and done by the Mayor and City Council; that all of the subjects included in the proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to the meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Elizabeth A. Deck
City Clerk

(S E A L)