

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 20th day of October, 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: Corey Granquist, Jim Lange, Rob Merrill, Shane Clausen, Thad Murren, Josh Moenning, Dave Fauss, and Dick Pfeil. Absent: None.

Staff members present were: City Administrator Shane Weidner, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Police Chief Bill Mizner, Information Systems Manager Jim McKenzie, Administrative Secretary Bethene Hoff, Prevention Manager Trent Howard, Fire Chief Scott Cordes, Communications Director Diane Becker and Senior Accountant Sheila Rios.

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

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

Consent Agenda Items Approved

Minutes of the October 6, 2014, City Council meeting

Resolution No. 2014-40 approving the final plat and subdivision agreement for Farm Credit Services of America Subdivision, a one lot subdivision located at 207 N 34th Street

Resolution No. 2014-41 approving the final plat and subdivision agreement for JMHS, L.L.C.'s Subdivision, a three-lot subdivision located on South 37th Street

Resolution No. 2014-42 approving a sidewalk waiver for JMHS L.L.C. Subdivision as requested by Christopher A. and Kami L. Merkel and JMHS, L.L.C. for property located in the 1900-2200 block of South 37th Street

Ray and Mary A. Haase easement agreements for construction and maintenance of a sanitary sewer main for a total of \$97.87

City of Norfolk's updated Safety Manual which strives to promote health and safety at all work sites and public areas within the City of Norfolk for its citizens and employees

Letter of no recommendation to the Nebraska Liquor Control Commission on the Class C liquor license application for Norfolk Country Inn, LLC, dba Norfolk Country Inn/Bistro Lounge, 1201 South 13th Street, and the manager application of Mashalle M. Wolff

Amend the Façade Improvement Program to allow more than one forgivable loan on a property

Susan Cooper, doing business as Norfolk Bruizin' Bettys, agreement to use the City Auditorium to hold a roller derby on Saturday, October 25, 2014 and Saturday, November 29, 2014

For The Girls (a Nebraska Nonprofit Corporation) agreement to use the City Auditorium on February 11, 2015 for a fundraiser event

Bills in the amount of \$1,808,898.92

Public Hearings and Related Items

Public Hearing

(appeal of Off Road Ranch, LLC, conditional use permit)

A public hearing was held on the appeal filed by Kathleen Koenig Rockey (Copple, Rockey, McKeever & Schlecht P.C., L.L.O.) regarding issuance of Conditional Use Permit No. 2014PC-5 by the Norfolk Planning Commission on September 23, 2014 to Off Road Ranch LLC.

Mayor Fuchtman stated the hearing will be conducted informally and outlined the hearing procedures to be followed, as follows:

This hearing results from the appeal of the granting of a Conditional Use Permit by the Planning Commission to Off Road Ranch, LLC for the operation of a stock car race track. The appeal was filed by Kathleen Koenig Rockey on behalf of multiple individuals signing the appeal submitted by Ms. Rockey. This hearing shall be conducted informally. Each witness may present his or her testimony in narrative fashion and shall state his or her name and address prior to commencing his or her testimony for the record. This hearing will not be conducted using the strict rules of evidence and the City Council may admit and give probative effect to evidence which possesses probative value, commonly accepted by reasonably prudent persons. Elected officials may question any witness at any time during the proceeding. The order of proceedings for conducting the hearing shall be as follows:

- A. Introduction of the issue by Prevention Manager Trent Howard.
- B. Presentation of evidence and witnesses by Ms. Rockey on behalf of the individuals signing the appeal.
- C. Presentation of evidence and witnesses by others opposed to the granting of the Conditional Use Permit.
- D. Presentation of evidence and witnesses by Off Road Ranch, LLC, the applicant granted the Conditional Use permit.
- E. Presentation of evidence and witnesses by others supporting the granting of the Conditional Use Permit.
- F. Rebuttal evidence by Ms. Rockey on behalf of the individuals signing the appeal, if desired.
- G. Rebuttal evidence by Off Road Ranch, LLC, if desired.

The hearing will then be closed and Council will then take action.

Introduction of the issue by Prevention Manager Trent Howard

Prevention Manager Trent Howard provided the following information to the Mayor and City Council.

- Off Road Ranch filed an application on 8-18-2014 for a Conditional Use Permit seeking a permit to operate a stock car race track at 2900 Old Highway 8, Norfolk, Nebraska.
- 2900 Old Highway 8 consists of property described as: The North 1/2 of the S 1/2 of the NW 1/4 and all that part of the N 1/2 of the NW 1/4 lying and being South of the County Road commonly known and referred to as “the Stanton Road” and as “Old Highway 8”, all in Section 6, Township 23 North, Range 1 East of the 6th P.M., in Stanton County, Nebraska.
- That property is presently included in the zoning district I-1 of the City of Norfolk’s extraterritorial jurisdiction.

Conditional use permits issued for the property are as follows:

- Chuck Wubben who owned Off Road Ranch LLC and was operated on that property since 2004. A conditional use permit was issued on 9-09-2004 as a personal privilege to allow for the operation of a private off road recreational dirt track, recreational vehicle storage and campground.
- Kevin Signor, Off Road Ranch LLC, purchased the property and has been operating on the property. A CUP was issued for five years as a personal privilege on 7-22-2008 to allow for the operation of a private off-road membership leisure riding track.
- Kevin Signor, Off Road Ranch LLC, applied for a CUP on 1-19-2009 and was granted a 5-year CUP on 3-03-2009 as a personal privilege to allow for the operation of a private off-road membership leisure riding operation. This permit differed from the previous 2008 CUP and allowed for extended times.

- Kevin Signor, Off Road Ranch LLC, applied for an amendment to the 2009 CUP on 7-15-2009 and was granted the 5 year CUP on 8-04-2009 as a personal privilege to allow for the operation of a private off-road membership leisure riding operation with the addition to allow for an RV park to be established.
- Matt Wilke filed an application for a conditional use permit on 5-09-2014 and was granted a conditional use permit on 7-25-2014 as a personal privilege for a watchmen or caretaker of a facility located on the Kevin Signor, Off Road Ranch LLC.
- Kevin Signor applied for on 5-27-2014 and was granted a 5 year CUP on 7-08-2014 to renew their existing conditional use permit to operate a private off road membership leisure riding operation and a recreational vehicle park.
- The Norfolk Planning Commission held a public hearing on 9-03-2014 receiving input and data from the applicant and the general public concerning the Conditional Use Permit application for the stock car race track.
- On 9-18-2014, a meeting involving the applicant, neighbors, those in opposition to the issuance of a permit for a stock car race track, Planning Commission members, and City staff was held to try to identify common ground among the various parties.
- On September 23, 2014, the Planning Commission approved Resolution No. 2014PC-5 granting a Conditional Use Permit for operation of a stock car race track by a vote of 5 to 4.
- On 10-02-2014, Kathleen Rockey filed an appeal of the Planning Commission's approval of a Conditional Use Permit to Off Road Ranch LLC on behalf of multiple parties who signed the actual appeal.
- Pursuant to Norfolk City Code Section 27-56, the City Council may, following a public hearing, reverse, affirm or modify the decision of the Planning Commission granting the Conditional Use Permit to Off Road Ranch LLC via Resolution No. 2014PC-5.
- Some of the concerns expressed to the Planning Commission resulted in specific conditions being included in the Conditional Use Permit.
- Finally, it should be noted that a request for a building permit on this site will require a detailed site plan meeting the requirements of Section 27-57 of the Norfolk City Code.

Exhibits presented by the City of Norfolk were:

1. Conditional Use Permit Application—Form A and Justification—Form B
2. 300' Boundary Map
3. Abstractor's Certificate
4. Notice of Public Hearing – September 3, 2014 Planning Commission meeting
5. Proof of Publication of September 3, 2014 Planning Commission meeting
6. Correspondence from: Jerry Pospisil; Eric DeVall; Skip Deck; Heather Green;
Juleen Brand; Matthew Gilmore; Jodie Palmer; Bruce Strong and Family;
Brad Vogt; Will Kucera; Julie Schulz; Jacob Timm; Ashley Sehi; Trinity Halsey; Robyn Travers;

Neil Korus; Jeff Haase, Tube City IMS; Dale Primrose Jr.;

Jared Anderson; Rick Hansen; Justin Robinson; Darrell Doerr; Terry Sehi; Jan Prauner, Prauner Racing; Lynette Addison; Susan Kumm; Stephanie & DJ Hoff; Susan Kumm

7. Map of proposed race track
8. September 3, 2014 Planning Commission meeting minutes
9. September 16, 2014 Planning Commission meeting minutes
10. Roster of September 18, 2014 Subcommittee meeting
11. Summary of September 18, 2014 Subcommittee meeting
12. Notice of September 23, 2014 Planning Commission meeting
13. Proof of Publication of September 23, 2014 Planning Commission meeting
14. Minutes of September 23, 2014 Planning Commission meeting
15. Conditional Use Permit, Resolution No. 2014PC-5
16. Appeal of Conditional Use Permit No. 2014PC-5 received October 2, 2014
17. Correspondence from Jodie Palmer
18. Correspondence from Larry and Nell Votruba
- 18.1 Correspondence from Cheryl Salisbury
19. Correspondence from Don & Janiece Novotny
20. Proposed map of the race track received October 14, 2014

Presentation of evidence and witnesses by Ms. Rockey
on behalf of the individuals signing the appeal

Kathleen Koenig Rockey, on behalf of those making the appeal, offered four exhibits in support of the appeal of Conditional Use Permit No. 2014PC-5, as follows:

21. Google overhead map
22. Map with names of protestants
23. Organic Farming Certificate – Duane Wolff, 55898 Old Highway 8, Norfolk, Nebraska
24. Flood zone map of Off Road Ranch

Mayor Fuchtman and Prevention Manager Trent Howard received all of the exhibits presented.

Ms. Rockey addressed the following listed in the appeal:

- A. A detailed Site Plan has not been submitted in support of the Conditional Use Permit in that the Site Plan is not to height and scale, does not provide information concerning setbacks, site development projections, frontage dimensions and other information necessary for a meaningful Site Plan review.
- B. Parking and internal circulation of the proposed area of the Conditional Use Permit is not properly identified on the Site Plan submitted by the Off Road Ranch LLC.
- C. Landscaping, including trees, providing buffering for surrounding land uses from noise is not utilized and, in fact, is specifically eliminated.
- D. Landscaping proposed by Off Road Ranch LLC does not provide for sensitive environmental features or the preservation of natural drainage ways as contemplated by Site Plan criteria in the Norfolk City Code.
- E. There is no Site Plan with architectural design and/or identification of building materials to demonstrate whether the same are compatible with surrounding areas or highly visible locations.
- F. The Conditional Use Permit does not address traffic capacity, external traffic effects or proposals that would minimize hazards to life or safety to surrounding properties and the general public.
- G. The Conditional Use Permit does not provide for any proposed sanitary waste disposal or individual waste disposal systems in order to evaluate whether the same would adversely affect public health, safety or welfare.
- H. The Site Plan and Conditional Use Permit does not address whether this development can handle storm water adequate to prevent overloading of public storm water management system so r the inhibition of development of other properties.
- I. The Conditional Use Permit does not adequately address the impact of a race track permit in the area affected by the Conditional Use Permit in reference to sound, noise, crowd control, law enforcement emergency response and late night usage.

Presentation of evidence and witnesses by others opposed to the granting of the Conditional Use Permit

Jerry Weatherholt, Stanton County Commission, 84140 568th Rd, Stanton, NE had concerns with security with the number of people expected to attend stock car races

Edwin Ferris, 1407 Hayes Avenue, Norfolk, NE had concerns with security and law enforcement

Mike Unger, 901 4th Street, Stanton, NE addressed law enforcement and will be seeking one full time position which will help with any increased work load if the Conditional Use Permit is approved.

Mike Williams, North Bend, is a certified independent agronomist, who discussed organic farming requirements and Rule 205. Williams feels there is a 100% chance contamination might occur to the organic farm.

Larry Votruba, 1408 Crown Road, Norfolk, NE has concerns with times of operation, noise, landscaping, litter/trash and lighting on the track. Votruba suggested litter/trash pickup be required for two miles.

Mike Bauer, 2120 E Coolidge Avenue, has concerns with groundwater contamination, noise and quality of life issues. Bauer requested denial of the Conditional Use Permit but if it is approved would like quality of life issues addressed in the permit.

Fauss questioned whether the motocross operation has caused any problems for organic farming.

Mike Williams is not aware of any problems from the motocross operation.

Mayor Fuchtman questioned staff on the zoning of property surrounding the Wolff property (organic farm).

Howard indicated most of the property is zoned I-1, light industry.

Fuchtman clarified that I-1 zoning allows for many different kinds of industries, without City Council approval, that could be more detrimental to organic farming.

City Administrator Shane Weidner questioned what happens with organic farms located by conventional farms and whether conventional farmers can spray for weeds, etc. and still be a good neighbor.

Williams stated organic farmers are required to put in buffer strips and conventional farmers need to make sure any applications are applied correctly and “would hold the spirit of” Rule 205.

City Attorney Schukei read information from 7CFR205 which has one of the land requirements for the national organic program as, “Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the unintended application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management” which does say the buffer zone must be on the organic farmers’ property and restrictions aren’t any different if next to a commercial farming operation that uses chemicals, pesticides and fertilizers or located by a race track.

Williams agreed there aren’t any differences except for materials that may be used on the racetrack and not a conventional farm.

Presentation of evidence and witnesses by Off Road Ranch, LLC,
the applicant grant the Conditional Use Permit

Brian Signor, 714 S 9th Street, Norfolk, NE addressed complaints listed in the appeal.

- (A) Detailed site plan – this has been an evolving process because Riviera Raceway didn’t announce it was closing until August 2014; however, the detailed site plan does address a lot of the concerns.
- (B) Parking and internal circulation -- The site plan now has parking for 885 vehicles.
- (C) Landscaping – Landscaping doesn’t include trees but the berms will be 10 foot high on the ends and 12 foot high by the grandstand; the 15 degree shift is towards Norfolk.
- (D) Natural drainage goes to the east, to the south and to the floodway with ditches already in place.
- (E) Architectural design and/or identification of building materials – The proposed grandstand will have steel siding, a green steel roof, and a press box in the middle.

- (F) Traffic capacity to minimize hazards to life or safety to surrounding properties. This is covered under number 5, Best Management Practices, in the Conditional Use Permit and part of that is 150 feet of hard surfacing to Grandview.
- (G) Sanitary Waste Disposal – Signor is under the impression that holding tanks built into the berm underneath the concession/bathroom area will be built underground but above the flood plain are adequate and this is covered in the Conditional Use Permit which states, “There shall be compliance with another applicable City, County, State or Federal regulations that may apply.”
- (H) Storm water management – never a problem and with the big flood several years ago the water only got to the motocross area and stayed there.
- (I) Sound, noise, crowd control, law enforcement emergency response and late night usage – there will be noise from the race track but you can also hear Jake brakes when they are applied. The crowd is a racing crowd not a crowd that is drinking all day. Signor feels Stanton County can handle any law enforcement emergency situation.

Signor stated the north entrance will be used as an emergency entrance for law enforcement and fire & rescue. The Planning Commission wanted the emergency entrance to come off of a paved road. Signor stated the track will not have guard rails on the ends for safety of the race car drivers. The top of the berm on the north end of the track is 100 feet away from Old Highway 8. Signor stated the new site plan isn't specific on some things but the most current site plan dated is dated October 20, 2014 and the grandstand dimensions are included in that plan.

Councilmember Moenning questioned whether an engineering study had been completed to address some of the concerns about sound, drainage, etc. Moenning questioned why trees and landscaping were taken out of the Conditional Use Permit.

Kevin Signor stated an engineering study was not one of the conditions in the Conditional Use Permit by the Planning Commission.

Jerry Pospisil addressed IMCA (International Motor Contest Association), a nationally sanctioned organization, rules and regulations for racing. The three sanctioned mufflers listed in the Conditional Use Permit kill the high twang of noise of motors to a decibel reading of 95 within 100 feet and the entire area is surrounded by trees. Pospisil explained Jake brakes have decibel readings over 100 and lawnmowers are in about 95 decibels.

Kevin Signor stated a subcommittee meeting with elected officials was held on September 18, 2014 and Signor understood that the trees and decibel levels were taken care of by IMCA regulations. An engineering study would cost a lot of money for a race track. Signor feels the 10 year CUP is reasonable because of the money involved in developing a race track. Signor has a list of businesses wanting to buy advertising at the track, including auto repair shops, insurance agencies, gas stations, Northeast Community College, and more, which, Signor feels, which indicates favor for the track.

Councilman Murren questioned whether Norfolk City Code applies to the Conditional Use Permit for the number and size of restroom facilities, plumbing codes, etc.

Howard replied that Norfolk City Code would apply to the building permit for the structures. Even though the location of the permit is in Stanton County, the area is located within the City of

Norfolk's 2-mile zoning jurisdiction. Howard stated that Norfolk City Code addresses Conditional Use Permit (CUP) complaint enforcement of conditions and any CUP can be reviewed, revoked, or changed if issues arise.

Schukei explained options available to Norfolk Codes Officials. If enforcement of a Conditional Use Permit is necessary, the CUP holder can be issued a citation with the potential for up to a \$500 fine every time a violation occurs. A public hearing will be held by the Planning Commission if an applicant fails to observe and maintain the conditions and restrictions of a conditional use permit and the CUP can be left alone, revoked or changed by adding, deleting or modifying conditions. Schukei questioned whether the Off Road Ranch plan referred to as Exhibit 20 is the most recent site plan. In the packet of materials distributed at this meeting, Exhibit 20 talks about a proposed map received October 14, 2014 and distributed to staff and Ms. Rocky. Schukei questioned whether the October 14 plan is the most recent.

Howard stated that October 14 plan shows the compass and scale incorrect; Exhibit 20 is not the most current site plan. However, Permits staff received an updated .pdf of a site plan dated October 20, 2014 which is the most current site plan.

Public Works Director Dennis Smith stated City staff has the new information if the Off Road Ranch applicant wants to put it into the record.

Signor requested the site plan dated October 20, 2014 and presented to City staff be received into the record to replace Exhibit 20 and that a color copy of the proposed site location of the race track with an overlay of the proposed track also be received into the record.

Mayor Fuchtmann and Trent Howard received the documents into the record and City Clerk Beth Deck distributed copies of the site plan dated October 20, 2014 and the color copy of the overlay of the track.

Councilmen Granquist and Lange requested clarification of the times of operation for the rack track and feel the CUP needs to be more specific.

Signor stated the CUP allows racing be begin at 6:00 p.m. and end by 10:30 p.m., with reasonable extensions past 10:30 p.m. if caused by a race car accident or weather delays. However, racing may not start until 7:00 p.m. depending on what drivers and fans prefer. Signor stated gates will open at 4:00 p.m. and no one would be in the pit area after midnight.

Councilman Fauss would like the Conditional Use Permit to state that gates open at 4:00 p.m., racing ends at 10:30 p.m., and everyone is gone by midnight.

Pospisil agreed with Fauss.

Signor agreed that trees could be planted on the sides and corners of the race track but behind the concession and bleacher area would not help because of the 20 foot berm.

Presentation of evidence and witnesses by others supporting
the granting of the Conditional Use Permit

Chad Jensen, 708 Spruce, Norfolk, NE has been racing for 18 years at Riviera. Jensen was told that a tree would need to be 100 feet high and solid to make any significant noise barrier. Racing

is a family/social occasion and there isn't any excessive drinking and most everyone arrives and leaves in an orderly fashion. Jensen doesn't remember any police calls at Riviera. Riviera always had onsite EMTs for any issues on the track or in the crowd and a safety crew from Columbus with two safety jeeps to take care of wrecks on the property. Jensen stated drivers do not emit any fluids unless an engine would blow up on the track, which would be very little. Drivers do not like to change oil at races and there would be very little fluid lost or put on the ground.

Weidner clarified for elected officials that Norfolk Fire & Rescue would cover the Off Road Ranch race track.

Margo Chendarth (?), 301 S Eastwood, Norfolk, NE, moved to Norfolk from Sioux City and is very happy to have an active racing community in Norfolk. Chendarth researched the Internet and found several studies on noise, one from the Corp. of Engineers with but the best solution being mufflers for noise control.

Dale Primrose, 813 S 11th Street, Norfolk, NE has been racing for 30 years. Race car drivers buy very expensive fuel and can't afford to have spills. Any spills that would happen would be contained to the track and there are methods to clean up spills. Primrose feels it would be a mistake for the City Council to pass on an opportunity to have this benefit for the community, both financial and for families. Racing is a very cohesive, powerful tool for bringing families together.

Nicole Sullivan, 514 Shorts Street, Pierce, NE, is 19 years old and wanted to speak on behalf of Norfolk youth. The race track has provided a positive solution and provides entertainment for teens.

Travis Roth, 5158 N Shore Place, Columbus, NE, owns Roth Racing and employs 16 people, 4 in Madison County. Roth said this is an emotional issue and will be a financial strain on his family and business if the race track isn't built in Norfolk.

Stacy Vogt, 85076 548 ½ Avenue, Pierce, NE met her husband at a race track and racing is a great family event. Velt doesn't feel race track noise is disturbing and the race track will be positive for the community.

Justin Robinson, 2305 Fairview Drive, Norfolk, NE thanked Mr. Signor for trying to keep racing in the community.

Jim Johnson, 512 N West, Plainview, NE races 2-3 nights a week and always takes his children along. Johnson owns an automotive repair business and the loss of a race track in Norfolk will be detrimental to his business. Johnson said families also shop and eat in Norfolk when they come to races.

Kristopher Turk, 501 S Sunset Street, Pierce, NE is 20 years old and loves racing. The race track is always a family-oriented place and youth need the race track for entertainment.

Kevin Signor stated that a "Support the Off Road Ranch race track" Facebook page is supported by 2,119 people.

Shari Neilan, 202 Iowa Street, Clearwater, NE has been in the racing business for 40 years and has an ATR "Addicted to Racing" Facebook page with over 2,982 likes.

Rebuttal of evidence by Ms. Rockey on behalf of the individuals signing the appeal

Ms. Rockey has concerns that the project continues to evolve with different maps, drawings and ideas. Rockey said the Conditional Use Permit approved by the Planning Commission was based on something other than the map presented at the City Council meeting. The map approved doesn't mention a berm, sound barrier, security or holding tank and feels "this can be nothing but described as a work in progress." Rockey feels a sound study should be undertaken to assess what the sound will be at the race track and the CUP doesn't include decibel language, perimeters or descriptions. The CUP rules and regulations need to be enforceable. The people who oppose this project don't oppose racing but are opposed to the applicant's project and the Conditional Use Permit.

Councilman Moenning asked if any citizens present could address concerns from livestock producers.

Tad Pospisil, 301 S Eastwood Street, Norfolk, NE has been racing since five years old. Pospisil has five horses and none of them flinch when a racing motor starts. There are cattle across the road from Riviera Raceway on South 1st Street and Pospisil has never seen those cattle disturbed after a race.

Kevin Palmer, 2201 Channel Road, Norfolk, NE lives about 1/4 miles from the proposed race track. Palmer isn't against racing but is against the location. Palmer breeds cattle and has horses but the proposed race track "will raise havoc with them." Palmer loves racing but "doesn't want it in my back yard."

Rebuttal evidence by Off Road Ranch LLC

Kevin Signor echoed what Margo Chenarth said about trees and that the main reduction in noise will be mufflers. Signor thanked supporters for their comments. Signor understands the concerns raised but they have been addressed and will be worked out.

There being no further testimony, Mayor Fuchtman closed the public hearing.

Councilman Moenning feels the issues need to be studied further, including sound, mufflers, berms, sanitation requirements and security.

Councilman Moenning moved to adopt Version A of Resolution No. 2014PC-5 reversing the decision of the Planning Commission.

Mayor Fuchtman stated it will be hard to take complete control of noise; mufflers will help but racing is a noisy event. There will only be 18 Saturday nights in the summer that isn't asking too much. Elected officials need to consider what is right for the community as a whole that offers a variety of entertainment.

Councilman Merrill understands Moenning's comments and said there are quality of life issues on both sides. However, it is difficult to make a decision on a site plan with "holes in it."

Councilman Lange agrees with Moenning and feels the CUP needs specificity, especially for Items #1 and #2. The restroom issue should be dealt with by Norfolk City Code and not in the

Conditional Use Permit. Lange feels the site plan isn't final and decibels should be at a certain level. Lange does not support rejection of the Conditional Use Permit and suggested having a subcommittee meeting to discuss requirements for the Conditional Use Permit – Version C. Lange proposed tabling action on the item to discuss conditions for the permit. Lange wanted citizens to know that tabling action does not mean the Conditional Use Permit will be approved.

Weidner stated if the Planning Commission decision is reversed, there is a six-month waiting period before the applicant can return with another application. Weidner requested clarity so staff and the applicant can prepare the document to bring back to elected officials.

Councilman Merrill said this item cannot wait six months and elected officials need to act as soon as possible.

Councilman Moenning withdrew the motion to reverse the Planning Commission decision.

Councilman Moenning moved, seconded by Councilman Merrill to table consideration of Resolution No. 2014PC-5.

Councilman Moenning moved, seconded by Councilman Merrill to table consideration of Resolution No. 2014PC-5 and take to a subcommittee for further review and clarification.

City Attorney Clint Schukei explained the issue before the City Council is to take action on the resolution in Version A, B or C or to table the resolution. Once that is done, elected officials can utilize the subcommittee process.

Mayor Fuchtman said the motion to table would be the purpose to take the issue back to a subcommittee for discussion.

Roll call on the motion to table Resolution No. 2014PC-5. Ayes: Councilmembers Granquist, Lange, Merrill, Murren, Moenning, Fauss and Pfeil. Nays: None. Abstaining: Clausen. Motion to table carries.

There being no further business, the Mayor declared the meeting adjourned at 8:44 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, October 20, 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)