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 3rd day of August, 2015, 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, Finance Officer Randy Gates, Police Chief Bill Mizner, Wastewater Plant Superintendent Todd Boling, Park Superintendent Pat Mrsny, Information Systems Manager Jim McKenzie, Administrative Secretary Bethene Hoff, Fire Chief Scott Cordes, Prevention Manager Trent Howard, Communications Director Diane Becker, Assistant City Engineer Mark Dolechek, Staff Engineer John Heine, and Risk Manager Lyle Lutt.

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 July 20, 2015, City Council meeting

Minutes of the July 23, 2015 City Council Work Session meeting

Minutes of the July 24, 2015 City Council Work Session meeting

Minutes of the July 27, 2015 City Council Work Session meeting

Mayor's appointment of Carol M. Svendsen to the Housing Agency Board effective September 1, 2015 for a term ending June 2019, replacing Florence Lavender who is resigning August 31, 2015

Resolution No. 2015-21 extending the City's LARM participation an additional year and requiring 180 day notice of intent not to extend LARM participation beyond the September 30, 2018 termination date

Elkhorn Construction Co. agreement for a traffic detour route over property owned by Elkhorn Construction Co. during construction of extending sanitary sewer over property in Sanitary Sewer Extension District No. 247

Olsson Associates engineering contract for engineering services to design and bid the influent pump improvement project at the Water Pollution Control Plant for a lump sum of $47,016.00 and approving a time and expense agreement for construction management of this project with a not to exceed cost of $3,447.00, resulting in a total cost not to exceed $50,463.00

Resolution No. 2015-22 approving the final allocation of levy authority for the Offstreet Parking District for fiscal year 2015-2016 allowing the District to levy a property tax of $88,416 not to exceed $.35 per hundred dollars of assessed valuation

Sacred Heart Church of Norfolk, (also known as Norfolk Catholic High School and a Nebraska Nonprofit Corporation) agreement to hold games, scrimmages, and practices on Memorial Field at Veterans Memorial Park for the 2015 football season ending November 30, 2015

Lutheran High School Association of Northeast Nebraska, Inc. (a Nebraska Nonprofit Corporation) agreement to hold games, scrimmages, and practices on Memorial Field at Veterans Memorial Park for the 2015 football season ending November 30, 2015

Bills in the amount of $1,177,482.02

Regular Agenda Items

Ordinance No. 5356
(PBN, LLC cable television system franchise)

Councilmember Lange introduced, seconded by Councilmember Pfeil, Ordinance No. 5356 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, GRANTING A FRANCHISE TO PBN, LLC, A NEBRASKA LIMITED LIABILITY COMPANY (REFERRED TO HEREIN AS “GRANTEE” OR “PBN”), TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF NORFOLK; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THE FRANCHISE; PROVIDING FOR CITY REGULATION AND USE OF THE CABLE TELEVISION SYSTEM;

PROVIDING FOR THE PAYMENT OF FRANCHISE FEES; PROVIDING PENALTY FOR THE VIOLATION OF THE ORDINANCE PROVISIONS; PROVIDING A REPEALER 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.

Paul Schudel, attorney for PBN LLC, spoke in favor of the ordinance. PBN wants to provide competitive cable TV service to Norfolk.

Klint Arnold, General Manager of PBN LLC, said approximately 42 miles of redundant fiber optics around the City of Norfolk. PBN is currently providing service to business and industrial customers in Norfolk; however, PBN will buildout throughout the community according to demand.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5356 passed on first reading only.

Public Hearing and Related Item

Public Hearing
(property acquisition, 510 S 4th Street
Christ Lutheran Church)

A public hearing was held to comply with the provisions of N.R.S. 18-1755 to acquire property at 510 South 4th Street. Public Works Director Dennis Smith provided information to the Mayor and City Council. This provides for (1) a new alley to be built by Christ Lutheran Church on what is currently Church property with the alley connecting to South 4th Street, (2) the conveyance of the newly-constructed alley to the City, and (3) the eventual vacation of a portion of the north/south alley between South 4th Street and South 5th Street where is it connected to Pasewalk Avenue with the effect of the vacation of the alley resulting in the property comprising the vacated alley vesting in and becoming part of the property abutting the portions of the alley being vacated.

No one appeared either in favor of or in opposition to the property acquisition at 510 South 4th Street and the Mayor declared the hearing closed.

Christ Lutheran Church agreement
(property acquisition, 510 S 4th Street)

Councilmember Fauss moved, seconded by Councilmember Moenning, to approve an agreement with Christ Lutheran Church of Norfolk, Nebraska, related to the north/south alley between South 4th Street and South 5th Street where it is connected to Pasewalk Avenue.

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

Regular Agenda Items

Finance Officer Randy Gates reviewed the July sales tax report (May sales) with elected officials.

Ordinance No. 5348
(sale of property to YMCA, City Auditorium, 127 N 1st Street)

Councilmember Moenning introduced, seconded by Councilmember Merrill, Ordinance No. 5348 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO AUTHORIZE THE SALE OF CITY PROPERTY; TO PROVIDE THE TERMS OF SALE AND AUTHORIZE THE MAYOR TO EXECUTE AND DELIVER A QUITCLAIM DEED TO THE PROPERTY; TO PROVIDE FOR A REMONSTRANCE TO SAID SALE AS PROVIDED BY LAW; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on third reading.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5348 passed on third reading.

Resolution No. 2015-20
(Off Road Speedway LLC hard surfacing waiver)
(2904 Old Highway)

Councilmember Merrill moved, seconded by Councilmember Clausen, to remove Resolution No. 2015-20 from the table. Resolution No. 2015-20 was tabled at the July 20, 2015 City Council meeting.

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

City Attorney Clint Schukei explained the proposed changes to Resolution No. 2015-20 include:

change “modification” to waiver
change Section 27-351 changed to 27-348 et. seq.
add “for the required parking stalls” in the “BE IT RESOLVED” section
and change the conditions to read as follows:

1. That said hard surfacing waiver shall expire October 28, 2024. Any modification or extension of said waiver must be approved by the Norfolk City Council after recommendation by the Norfolk Planning Commission.
2. The Norfolk City Council reserves the right to, at any time, upon recommendation of the Norfolk Planning Commission, modify this waiver or remove this waiver and require compliance with the hard-surfacing requirements of the Norfolk City Code.

Schukei explained that, per city code, the required number of parking stalls is about 200.

Councilmember Lange moved, seconded by Councilmember Murren, moved to amend Resolution No. 2015-20 with the proposed changes discussed (said proposed changes were also distributed in the agenda packet and at the City Council meeting).

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

Councilmember Lange moved, seconded by Councilmember Pfeil to adopt Resolution No. 2015-20 as amended.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Resolution No. 2015-20, as amended, was adopted.

Ordinance No. 5355
(fee ordinance)

Councilmember Merrill introduced, seconded by Councilmember Granquist, Ordinance No. 5355 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 2-5 OF THE OFFICIAL CITY CODE TO INCREASE AMBULANCE FEES RELATED TO “ASSIST ONLY” CALLS; TO INCREASE SEWER RATES, TO INCLUDE RESERVATION FEES FOR STAGES AT CENTRAL PARK AND SKYVIEW PARK, TO INCLUDE A MECHANICAL PERMIT FEE FOR PACKAGED TERMINAL AIR CONDITIONER; 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 second reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5355 passed on second reading.

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. 5355 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. 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. 5355 as required by law.

National Environmental Policy Act (NEPA)
(Norfolk North Fork Riverfront Trail project to include street closure and vacation)

Councilmember Fauss moved, seconded by Councilmember Moenning, to approve the draft National Environmental Policy Act (NEPA) Categorical Exclusion (CE) for Federal Aid

Recreation Trails Projects document for the Norfolk North Fork Riverfront Trail project including the closure and vacation of Nebraska Avenue from 1st Street to Oak Street.

Assistant City Engineer Mark Dolechek provided information to elected officials. Staff will prepare the necessary documents to complete the closure of Nebraska Avenue if approved by elected officials.

Councilmember Clausen was contacted by citizens with concerns about traffic flow and parking and questioned the number of parking stalls that will be available.

Councilmember Fauss questioned whether a traffic count on Nebraska Avenue was completed.

Dolechek said a traffic count indicated approximately 500 vehicles per day on Nebraska Avenue; however, there are about 12,000 vehicles per day that use North 1st Street. Dolechek said the number of stalls can't be determined until design phase of the project which can't be approved until this document is approved.

Public Works Director Dennis Smith said additional parking will be in the lot where the current Park Maintenance building is located once the buildings are removed.

Councilmember Moenning said the goal is to improve Johnson Park and increase usage by reconnecting with the river.

Kimberly Davis, 310 Oak Street, has parking and traffic concerns with closing Nebraska Avenue.

Jon Downey, a member of the Trails Committee, spoke in favor of closing Nebraska Avenue to make Johnson Park a viable recreation area by connecting current and future trail projects throughout the community.

Paula Pennington, 306 Oak Street, has concerns with traffic if Nebraska Avenue is closed.

Darrel Novacek is a trail/river development proponent and spoke in favor of the project.

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

Resolution No. 2015-23
(Airport Authority property tax levy FY 2015-2016)

Councilmember Lange excused himself from the meeting "because of a contract received that may be viewed as a conflict of interest" regarding the Airport Authority levy request. Lange does not feel it is a total conflict, however, and Lange will not be abstaining from voting on the overall City's FY 2015-2016 budget when it is considered.

Councilmember Murren moved, seconded by Councilmember Merrill, to adopt Resolution No. 2015-23 approving the final allocation of levy authority for the Norfolk Airport Authority for fiscal year 2015-2016 allowing the Norfolk Airport to levy a property tax of $448,064.

Mayor Fuchtman requested an explanation of the Airport Authority funding request and understands an amount less than $60,000 is now needed to service the debt on the new hangar.

Finance Officer Randy Gates explained that actual project costs for the hangar increased; however, the Airport Authority's share of the project decreased because it went from being about 70% for the hangar and 30% for the taxiway to about 60% for the hangar and 40% for the taxiway. Federal funds pay 90% of the taxiway project and the Airport Authority pays 10%; whereas the Airport has to pay for the hangar. The actual debt service amount decreased about $5,900 on this project and there was already at least $1,000 of cushion in the $60,000 requested by the Airport Authority. The actual tax levy requested is the $60,000 increase that the City Council said earlier this year would be the amount that the debt service exceeded the hangar rent, which is actually about $7,000 more than is required, based on actual bids received, so the annual property tax subsidy needed for debt service on the new hanger project is only $52,909, or $7,091 less than the $60,000 estimated last year. Therefore, the actual amount needed to service the debt would be $7,280 less after taking the 2% County Treasurer's commission and 2% delinquency allowance into account. Gates discussed this with Jerome Bahm, accountant for the Airport Authority, as well. Bahm did not dispute the numbers and said "he was directed to request the $60,000."

Fuchtman stated that Geary stated at a previous City Council meeting that if the hangar project exceeded $1 million the Airport Authority would not go forward with the hangar project. Fuchtman said elected officials need to look out for taxpayers' dollars.

Geary agreed with Gates' analysis but would have liked this discussed at the budget work session.

Councilmember Pfeil moved, seconded by Councilmember Murren to amend Resolution No. 2015-23 by decreasing the property tax asking amount from $448,064 to $440,784 for the Norfolk Airport Authority FY 2015-2016 budget.

Roll call: Ayes: Councilmembers Granquist, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Abstaining: Lange. Absent: None. Motion carried. Resolution No. 2015-23, as amended, was adopted.

Councilmember Moenning moved, seconded by Councilmember Merrill to adopt Resolution No. 2015-23 as amended.

Roll call: Ayes: Councilmembers Granquist, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: Merrill. Abstaining: Lange. Absent: None. Motion carried. Resolution No. 2015-23, as amended, was adopted.

Ordinance No. 5357
(packaged terminal air conditioner (PTAC))

Councilmember Murren introduced, seconded by Councilmember Fauss, Ordinance No. 5357 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 6-107 OF THE OFFICIAL CITY CODE TO INCLUDE A DEFINITION FOR

PACKAGED TERMINAL AIR CONDITIONER (PTAC); 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 Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5357 passed on first reading.

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

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. 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 Murren, 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. 5357 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. 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. 5357 as required by law.

There being no further business, the Mayor declared the meeting adjourned at 7:03 p.m.

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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, August 3, 2015 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.

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Elizabeth A. Deck
City Clerk

(S E A L)