

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 1st day of February, 2016, 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, Administrative Secretary Bethene Hoff, Finance Officer Randy Gates, Information Systems Manager Jim McKenzie, City Planner Valerie Grimes, Communications Director Diane Becker, Police Chief Bill Mizner, Prevention Manager Trent Howard and Planning Commission Secretary Stacey Hansen.

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 Moenning 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 January 29, 2016 Special City Council meeting

Olsson Associates Letter Agreement to perform professional engineering services for preliminary engineering for various Norfolk bridges – 2016 for an amount not to exceed \$21,800.00

Letter of no recommendation to Nebraska Liquor Control Commission on the Class I liquor license application for Hit Em Up LLC, dba Hit Em Up, 426 West Norfolk Avenue, and the manager application of Nickolas I Humphrey

Olsason Associates Letter Agreement for professional engineering services for the National Guard ALTA Survey for an amount not to exceed \$3,800.00

Purchase of 9 replacement rugged Getac tablets and associates vehicle mounting hardware and docking stations for the Police Division off the State3 of Nebraska contract from Hewlett Packard for a total of \$45,630.35

Sacred Heart Church of Norfolk (Norfolk Catholic High School), a Nebraska nonprofit Corporation, to use Memorial Field at Veterans Memorial Park and soccer fields in North Pine Park to hold practices and games for their 2016 soccer season through May 15, 2016

Andy Mohr, dba Diamond Dawg Organization, agreement to use Ta-Ha-Zouka Park facilities for baseball practice and games for their 2016 baseball season from March 1, 2016 through September 30, 2016

Scott Orwig, dba Impact Softball, to use Field B in Ta-Ha-Zouka Park for softball practice and games for their 2016 softball season from April 1, 2016 through December 31, 2016

Bills in the amount of \$13,648,764.31

Special Presentations

The Mayor proclaimed the month of February, 2016 as “JOOI of Reading Month” and the month of March, 2016 as “Problem Gambling Awareness Month.”

Public Hearings and Related Items

Public Hearing

(Grant #12-TFRH-5034 – second hearing)

Judy Joy with the Northeast Nebraska Economic Development District stated this is the second required public hearing for grant #12-TFRH-5034. Joy explained the City of Norfolk was awarded \$501,905 in NAHTF Funds for the renovation of three properties in downtown Norfolk. Those three properties were to be renovated into seven rental units of which three of the units were required to be rented to low-to-moderate income families during the five year affordability period. Of the \$501,905 NAHTRF grant funds, \$422,620 was utilized for housing rehabilitation; \$49,800 for housing management and \$29,485 for general administration of the project. Rental property rehabilitation and rental conversion costs in the amount of \$601,571 were provided by the local property owners. The total cost of the project was \$1,103,476. One contract amendment was approved by the Nebraska Department of Economic Development for a decrease in proposed accomplishments from seven units to six units. The decrease in proposed accomplishments also reflected a decrease in the budget for housing rehabilitation of \$78,370, housing administration of \$5,614 and general administration of \$4,212. The number of rental

units required to be rented to low-to-moderate income families remained at three. No persons were displaced as a result of the NAHTF activities.

No one appeared either in favor or in opposition to the public hearing and the Mayor declared the hearing closed.

No action was required on this item.

Public Hearing

(Appeal of Conditional Use Permit Amendment for Off Road Ranch, LLC)

Mayor Fuchtman read the Conditional Use Permit (CUP) Appeal hearing procedures. Fuchtman explained the hearing results from the appeal of the Planning Commission approval of modifications to the Conditional Use Permit granted 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. The hearing will be conducted informally.

City Planner Val Grimes read the list of exhibits presented by the City, as follows:

EXHIBITS

1. Conditional Use Permit Resolution No. 2014-43
2. Conditional Use Permit Modification Application – Form A and Justification - Form B received December 16, 2015
3. 300' Boundary Map
4. Abstractor's Certificate
5. Notice of Planning Commission meeting - January 5, 2016
6. Proof of Publication of Planning Commission meeting – January 5, 2016
7. Notice of Public Hearing – January 5, 2016 Planning Commission meeting
8. Proof of Publication of Planning Commission Public Hearing – January 5, 2016
9. Planning Commission Resolution No. 2016PC-2
10. January 5, 2016 Planning Commission meeting minutes
11. Appeal of Conditional Use Permit Resolution No. 2016PC-2 received January 19, 2016
12. Amended Appeal of Conditional Use Permit Resolution No. 2016PC-2 received January 19, 2016
13. Notice of City Council Meeting – February 1, 2016
14. Proof of Publication of City Council meeting – February 1, 2016
15. Notice of Public Hearing – February 1, 2016 City Council meeting
16. Proof of Publication of City Council Public Hearing – February 2, 2016
17. Correspondence from Bruce Strong (January 30, 2016)
18. Correspondence received by Trent Howard (June 6, 2015; July 9, 2015 & July 18, 2015)

Mayor Fuchtman received all of the exhibits into the record.

Grimes provided an introduction of the issue and explained this area and the surrounding land is zoned agricultural or industrial. Grimes reviewed the history of the Off Road Ranch CUP and stated several other conditional use permits have been issued in the area as well; one is a concrete crushing business in I-1; one is a storage facility in I-3 and two are watchman/caretaker in I-1 zoning.

Mayor Fuchtman stated citizens who request to live in an industrial zoning district with a conditional use permit need to be cognizant of the fact that businesses allowed in industrial zoning can locate there at any time.

Grimes explained Off Road Ranch requested three amendments to Conditional Use Permit 2014-43: 1) allowing racing on Sunday when a regular scheduled racing day falls on a holiday or is cancelled due to weather; 2) add two additional special nights of racing per year with these occurring on Saturday of a regularly scheduled race night or Sunday in the event of weather cancellation; and 3) use of the northern property gate onto Old Highway 8 in case of an emergency.

Prevention Manager Trent Howard discussed Exhibits #17, correspondence from Bruce Strong (January 30, 2016); and #18, correspondence received by Trent Howard (June 6, 2015, July 9, 2015 and July 18, 2015). Howard was asked at the Planning Commission meeting whether Howard had received “a lot of noise complaints” regarding the Off Road Ranch conditional use permit. Howard replied “no” to the best of his knowledge about “a lot” of complaints. Howard was contacted by a person who didn’t believe the race cars had muffler in place. Howard contacted Signor who said all cars on inspected when coming to the races and mufflers are all in place where required.

Rockey spoke on behalf of some neighbors with the following concerns: enforcement and concerns about the lack of City staff having knowledge of and monitoring to make care have mufflers; neighbors have no issue with use of the north gate but feel they need to be proactive on how it will be handled and would like a recommended path of travel to the east (an orderly method to direct traffic); oppose the expansion of the racing season and neighbors don’t want any races on Sundays because of the impact on people having to go to work on Monday; concerns with Super Late Models racing without mufflers and said neighbors want a “clear understanding” of Signor’s requests. Rockey said a main concern of the neighbors is not wanting to come back every year because of new requests from Off Road Ranch.

Roy Pinnt, who lives in Norfolk but owns property by the race track, said the CUP allows 24 days of racing but no practice nights. Prince said a practice night was listed on the Off Road Ranch web site. Prince is opposed to Sunday night racing and feels the Planning Commission made a mistake issuing the CUP and should have denied any expanded racing.

Ed Ferris doesn’t understand why Off Road Ranch is requesting changes to the conditional use permit.

Duane Wolff lives east of the race track and feels problems would be resolved if all cars were required to have mufflers.

Kevin Signor, Off Road Ranch, is requesting the CUP amendments because business owners need to reevaluate/change/update operations on a regular basis to continue to succeed. Signor decided to not move forward with the request to have racing on Sunday’s in the event of a holiday on Saturday or a weather cancellation of races. Signor stated the northern property gate exit request is for safety during emergencies; however, it is difficult to get traffic to go a certain direction in an emergency. Signor does not want to direct traffic on a county road, and can’t control how people think during an emergency, but would be willing to place a sign to direct traffic. The third request is for two additional special nights of racing per year with these occurring on Saturday of a regularly scheduled race night. These would not be additional nights of racing just a change in class racing on a regularly scheduled night. Signor reiterated what

Grimes said that several of the neighbors are living in houses in industrial areas because of conditional use permits. Signor stated no practice sessions are held at the race track but one of the regularly scheduled race nights is used for to “test & tune” cars.

Fauss questioned if mufflers are checked at Off Road Ranch.

Jerry Pospisil spoke in favor of the CUP amendments and explained a Tech Director does car inspections prior to weigh-in at each race at Off Road Ranch; which includes inspecting mufflers as a standard practice.

Granquist questioned what constitutes an emergency.

Signor said racing officials seeing that bad weather coming, which can be a lot of things, would be an emergency.

Ferris said Signor did not abuse use of the north gate during the last racing season.

Weidner suggested signage for traffic exiting through the northern gate in an emergency but not having someone direct traffic.

Lange agreed about placing signage by the northern gate; however, an emergency can't be defined and people will go whichever direction they want to in an emergency.

Signor requested approval of two of the CUP amendments: 1) allow use of the northern gate in emergencies, and 2) allow two additional special classes of racing per year with these occurring on Saturday of a regularly scheduled race night.

No one else appeared either in favor of or in opposition to the Conditional Use Permit Amendments and the Mayor declared the hearing closed.

The agenda packet has options for Resolution No. 2016-5: Option A - Reverse; Option B - Affirm; and Option C - Modify. Elected officials could also table the resolution to provide opportunity for staff to prepare a modified resolution to bring back to elected officials. Schukei said that, because Signor withdrew the request for Sunday racing, it appears Option C – Modify will be the one considered; however, staff would like direction to prepare the resolution for consideration.

Resolution No. 2016-5

(Rockey appeal, Off Road Ranch LLC Conditional Use Permit Amendments)

Councilmember Fauss moved, seconded by Councilmember Clausen, to table consideration of Resolution No. 2016-5 related to the appeal of amendments to the conditional use permit for Off Road Ranch, LLC, to operate a stock car race track and to direct staff to prepare a resolution to bring back to the City Council for consideration allowing up to three nights of special class racing and allowing the use of the northern property gate onto Old Highway 8 to be used during an emergency and placing signage by the gate.

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

Sales Tax Report

Finance Officer Randy Gates provided information on the January sales tax report (November sales)

Ordinance No. 5377

(Parking restriction on McKinley Avenue)

Councilmember Lange introduced, seconded by Councilmember Murren, Ordinance No. 5377 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-164 OF THE OFFICIAL CITY CODE TO RESTRICT PARKING ON THE SOUTH SIDE OF MCKINLEY AVENUE FROM THE EAST CITY LIMITS TO THE WEST END OF MCKINLEY AVENUE; 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.

Public Works Director Dennis Smith explained the request is to improve safety on McKinley Avenue by removing the encroachments from vehicles being parked on both sides of the street. To further safety, the City is also in the process of installing a trail along the south side of McKinley Avenue as well as regarding the ditch along the south side of McKinley Avenue to improve drainage. Improved parking row delineation will be provided at the adult softball complex parking lot to improve the number of vehicles that can be accommodated in the lot to replace the stalls lost to removal of the street parking.

Councilmember Clausen has concerns with the distance needed to walk to various areas in the park and with children crossing the street to go to the concessions. Clausen would like staff to provide a plan for the proposed parking.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5377 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, Murren, Moenning, Fauss and Pfeil. Nays: Granquist, Merrill and Clausen. Absent: None. Motion to suspend the rules failed.

Ordinance No. 5377 passed on first reading only.

There being no further business, the Mayor declared the meeting adjourned at 7:42 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, February 1, 2016 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

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