

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 19th day of January, 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, Dave Fauss, and Dick Pfeil. Absent: Thad Murren and Josh Moenning..

Staff members present were: City Administrator Shane Weidner, City Attorney Clint Schukei, City Clerk Beth Deck, Finance Officer Randy Gates, Police Chief Bill Mizner, Administrative Secretary Bethene Hoff, City Planner Val Grimes, Operations Manager Jim Dooley, Fire Chief Scott Cordes, Risk Manager Lyle Lutt and Human Resources Director Sheila Schukei.

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 remove Item #13, Zoning Board of Adjustment temporary appointments, from the consent agenda and approve the consent agenda as amended. Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Fauss and Pfeil. Nays: None. Absent: Murren and Moenning. Motion carried.

Councilmember Fauss moved, seconded by Councilmember Lange to amend the regular agenda with the addition of Item #13, Zoning Board of Adjustment temporary appointments, and to adopt the full agenda as amended. Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Fauss and Pfeil. Nays: None. Absent: Murren and Moenning. Motion carried.

Consent Agenda Items Approved

Minutes of the January 4, 2016, City Council meeting

Telecommunications occupation tax report for Fiscal Year 2014-2015

Food & beverage and lodging occupation tax report for 4th quarter 2015

Keno report for December 2015

United Farm and Ranch Management of Norfolk proposal for management of City owned agricultural property

Advertise for bids for a replacement skid steer to be used by the Street Division

Bills in the amount of \$1,457,568.44

Regular Agenda Items

Black Hills Amendment #1

(Northeast Nebraska Line Funding Assistance Agreement)

Councilmember Lange moved, seconded by Councilmember Fauss, to approve Amendment #1 to the Northeast Nebraska Line Funding Assistance Agreement between Black Hills Nebraska Gas Utility Company, LLC and the City of Norfolk.

City Administrator Shane Weidner explained the Northeast Nebraska Line Funding Assistance Agreement between Black Hills Nebraska Gas Utility Company, LLC and the City approved on June 30, 2014 provided for the City to contribute \$3.6 million for the construction of the Northeast Nebraska line intended for natural gas transportation for customers based on an LB840 application from Tejas allowed by voter approval of the Economic Development Plan (LB840). Amendment #1 provides for direct assistance to Black Hills for an infrastructure project (i.e. at least a 6-inch natural gas line from the Bancroft area to the Norfolk area). Amendment #1 also adjusts the timing of payments and project completion dates to reflect the Tejas project delay. Amendment #1 requires approval of a gas transportation agreement between OCT and Black Hills.

Scott Zaruba, Black Hills, spoke in favor of Amendment #1 to the Northeast Nebraska Line Funding Assistance Agreement between Black Hills Nebraska Gas Utility Company, LLC and the City of Norfolk and feels this is a great partnership and will greatly benefit the community.

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

Ordinance No. 5376

(parking on 7th Street between Michigan & Pasewalk)

Councilmember Merrill introduced, seconded by Councilmember Pfeil, Ordinance No. 5376 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-164 OF THE OFFICIAL CITY CODE TO ALLOW PARKING ON THE EAST SIDE OF SOUTH 7TH STREET BETWEEN MICHIGAN AVENUE AND PASEWALK 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.

Weidner explained this ordinance came forward at the direction of a subcommittee of elected officials and after a neighborhood meeting. The City has received complaints from the general public, neighborhood residents and particularly representatives of the railroad about parking on the terrace and railroad right-of-way. The Union Pacific (UP) owns the railroad and will no longer allow parking on their property. The UP owns property 50 feet from the center line of the railroad on both sides. There

have also been complaints about property maintenance on the property. Parking is currently not allowed along 7th Street between Pasewalk and Michigan. Weidner said three options have been discussed: (1) allow parking on the east side of 7th Street which will provide more parking spaces even though residents would need to cross the street. Allowing parking on the west side of 7th Street was considered by a subcommittee of elected officials but problems arise when backing out of driveways and, because of the driveways, the number of parking spaces would be limited; (2) do nothing; (3) pave part of the terrace for parking; however, this would be expensive. (City Code prohibits parking on terraces and the City can begin enforcement action because of the concerns expressed by the UP). Weidner said another option would be to enforce the no parking on terraces and keep parking off 7th Street, which means residents would need to find another location for parking. Weidner said paving the terrace would cost an estimated \$100,000 and would need to be prioritized in the City 1&6 Year Street Plan and could cause problems with other citizens in the community requesting the City pave their terrace for additional parking. Weidner stated parking on Prospect Avenue is similar in width to 7th Street and has worked for many years. The traffic count on 7th Street was 2,100 vehicles and on Prospect Avenue it was 2,155.

Councilman Clausen would like to consider the long term use of South 7th Street and the use of the City's 15' right-of-way for parking. Clausen feels 7th Street has too much traffic for street parking to work and would like to look at the option of paving the terrace. Clausen questioned whether the UP railroad would be "open to allowing 1-2 more years" for citizens to park on the property. Clausen would like to explore more options for the neighborhood including the possibility of an alleyway behind the residences.

Weidner stated the railroad has liability concerns with vehicles parked on their property.

Councilman Granquist agreed more options should be explored and suggested tabling the ordinance.

Lon Sandall, 812 South 7th Street, feels the simplest solution to the parking issue is an alley behind the homes on South 7th Street and feels parking on the east side of the street "will be a fiasco."

Councilman Pfeil understands there is only a partial alleyway behind the homes.

Weidner agreed and said one of the major issues discussed at the neighborhood meeting was that no alleyway exists behind the houses.

Councilman Clausen moved, seconded by Councilman Fauss to table consideration of Ordinance No. 5376. Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Fauss and Pfeil. Nays: None. Absent: Murren and Moenning. Motion to table carried.

Zoning Board of Adjustment
(Temporary Appointments)

This item was taken off the consent agenda and moved to the regular agenda at the request of Paul Medeman.

Councilman Lange moved, seconded by Councilman Merrill to approve the Mayor's temporary appointments of Melissa Wentling and Garry Murren (as alternate) to the Zoning Board of Adjustment for an appeal hearing.

Weidner explained the temporary appointments are in response to a Board of Adjustment (BOA) hearing scheduled for January 25, 2016 on an appeal to the City Planner's November 18, 2015 letter interpretation of whether the City's Comprehensive Plan designates the area located along north 25th

Street between Highway 275 and Omaha Avenue as industrial or commercial. Weidner stated TCK Leasing of Norfolk, LLC and SWAD, LLC filed zone change applications on October 5, 2015 for both properties to change from I-1 (Light Industrial District) to C-3 (Service Commercial District). The Future Land Use Map shows the area as commercial but the text of the Comprehensive Plan shows the area as industrial generally along Omaha Avenue. Because of this ambiguity, City Code requires the City’s Zoning Official (in this case the City Planner) to make a determination. The City Planner made the determination, by looking at a historical review of previous zone change applications of record and reviewing past zoning actions in that area, that the area should be designated as commercial. That decision is the basis of the appeal to the Board of Adjustment. Weidner explained there are five members on the Board of Adjustment, plus an alternate. Two of the BOA members have conflicts of interest. Therefore, to get a full Board of Adjustment, Mayor Fuchtman directed City staff to reach out to past Board of Adjustment members to sit for the appeal hearing. Wentling and Murren are willing to accept the temporary appointments to have a full five-member board sit for the appeal hearing. Wentling will sit at the hearing and Murren will be an alternate.

City Attorney Clint Schukei said State Statutes doesn’t address multiple declarations of conflicts of interest on a Board of Adjustment but does state that there needs to be four (4) affirmative votes for an appeal to be successful. The City has traditionally asked those persons making an appeal whether they want to move forward with a hearing when only four members are available or whether they want to reschedule the hearing when the full 5-member board present.

Medelman requested the City Council reconsider the appointments because Murren has voted on this issue in the past as a Planning Commission member and Medelman has “personal legal matters” with Wentling.

Roll call on the temporary appointments to the Board of Adjustment: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Fauss and Pfeil. Nays: None. Absent: Murren and Moening. Motion carried.

There being no further business, the Mayor declared the meeting adjourned at 6:12 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 Tuesday, January 19, 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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