

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 21st day of February, 2017, 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 Josh Moenning called the meeting to order. Roll call found the following Councilmembers present: Corey Granquist, Jim Lange, Rob Merrill, Shane Clausen, Thad Murren, Gary Jackson, 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, Wastewater Plant Superintendent Todd Boling, Administrative Secretary Bethene Hoff, City Planner Val Grimes, Water & Sewer Director Dennis Watts, Human Resources Director Sheila Schukei, Library Director Jessica Chamberlain, Risk Manager Lyle Lutt, City Engineer John Heine and Staff Engineer John Cahill.

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, Jackson, 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, Jackson, Fauss and Pfeil. Nays: None. Absent: None. Motion carried.

Consent Agenda Items Approved

Minutes of the February 6, 2017, City Council meeting

Keno report for January 2017

Felsburg Holt & Ullevig (FHU) engineering contract to develop a Stormwater Management Post Construction BMP Master Plan for an amount not to exceed of \$74,649.00

Resolution No. 2017-11 releasing the West 2 feet of the rear 10-foot utility easement on Lot 1B, Block 3, less the South 5 feet thereof, of Meadow Ridge Phase IV 2nd Addition to the City of Norfolk, Madison County, Nebraska, being a part of the North ½ of the Northeast ¼ of Section 23, Township 24 North, Range 1 West, of the 6th P.M., Madison County, Nebraska

Olsson Associates Letter Agreement for engineering services for the Omaha Avenue Lift Station, Force Main, and Gravity Sewer Improvements project for an amount not to exceed \$323,177.00

CARR Coatings, LLC, contract for the repainting of the AquaVenture aquatic facility pool vessels for \$59,200.00 to furnish all labor, materials, equipment and all else necessary to properly do the improvements. CARR Coatings was the low bid of two bids received on January 31, 2017. The other bidder was ACCO Unlimited Corp, \$106,136.00.

Purchase a replacement *Sewer Service Truck* from Norfolk GM Auto Center for \$24,600.00, which is lower than the state bid for a current year 1500 Chevrolet Silverado

American Cancer Society, Inc. (a New York Nonprofit Corporation), d/b/a Norfolk Area Relay for Life, agreement to use Skyview Park for a color run event on Saturday, April 22, 2017

Fine Wine, LLC, dba Jim's Fine Wine & More, 2001 Market Lane, special designated liquor license to serve wine and beer at Mid-City Superstore, 1900 Center Drive, on Thursday, March 23, 2017, from 5:00 p.m. to 8:00 p.m. at a tasting event

Interlocal Agreement for the Norfolk Public Library to continue membership in the ONE Library Consortium which allows for joint purchasing of the library's circulation, cataloging, and patron management software

Tina M. Kassmeier, doing business as Kelly's Fast Pitch Softball, agreement to use softball fields in Ta-Ha-Zouka Park and Liberty Bell Park for softball practice and games for their 2017 softball season from April 1, 2017 through October 1, 2017

Scott Orwig, doing business as Impact Softball, agreement to use Field B in Ta-Ha-Zouka Park for softball practice and games for their 2017 softball season from March 23, 2017 through August 14, 2017

Luis Cortez, doing business as Norfolk Adult Soccer League, agreement to use soccer fields located in North Pine Park for soccer games for their 2017 summer/fall soccer season from April 23, 2017 through September 30, 2017

Resolution No. 2017-12 reappointing Dr. George Tom Surber as the Physician Medical Director and appointing Dr. Lisa Yosten as the Associate Physician Medical Director for the City of Norfolk

Purchase a replacement Vac Con high pressure jet sewer cleaner for the Water Division from Mid-Iowa Solid Waste Equipment Company for \$169,555.00

Bills in the amount of \$1,109,085.72

Special Presentations

The Mayor proclaimed February 28, 2017, as "Spay Day USA".

Public Hearings and Related Items

Public Hearing

(2017-2022 One and Six Year Street Improvement Plan)

A public hearing was held to consider the 2017-2022 One and Six Year Street Improvement Plan. Public Works Director Dennis Smith provided information to the Mayor and City Council. The proposed 2017-2018 projects, which begin October 1, 2017, are as follows:

- Miscellaneous Street Maintenance Work by Contract, \$2,800,000
- Miscellaneous Residential Paving Districts, \$30,000
- Reconstruct Bridge on Norfolk Avenue & Cottonwood Street, \$730,000
- Bridge Maintenance Improvements, \$500,000

Smith explained Olsson Associates evaluated bridges in Norfolk and provided four options with various recommendations for each bridge. None of the bridges need total replacement as long as some repairs are done in the near future. Bridge repairs will begin in early 2018. Smith stated the Benjamin Avenue widening project has been pushed back with engineering to begin in 2020-2021 and proposed construction in 2021-2022 and 2022-2023. It was also necessary to push back several other projects because of the increased cost for the reconstruction of the East Norfolk Avenue bridge project. Smith reviewed the 2017 armor coat project map. Smith said that, moving forward, staff is hoping to start earlier to review available funding and the various street improvement projects and obtain public input.

Mark Klafter, 510 S 15th Street, read from a Letter to the Editor published in the January 4, 2017 *Norfolk Daily News*. Klafter feels all city streets should be paved and referred to the unpaved portion of South 15th Street between Hayes and Park Avenue. Klafter encouraged elected officials to move forward with getting all city streets paved.

Councilmember Merrill feels elected officials need to take a strong look at what can be done to get unpaved streets paved.

Councilmember Lange requested City staff compile an inventory of unpaved streets in the City of Norfolk to help with planning and prioritizing in the future.

On February 7, 2017, the Norfolk Planning Commission held a public hearing regarding the 2017-2022 One and Six Year Street Improvement Plan. 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 2017-2022 One and Six Year Street Improvement Plan and the Mayor declared the hearing closed.

Resolution No. 2017-13
(2017-2022 One and Six Year Street Improvement Plan)

Councilmember Lange moved, seconded by Councilmember Merrill, to adopt Resolution No. 2017-13 approving the 2017-2022 One and Six Year Street Improvement Plan for Street Improvements.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Resolution No. 2017-13 was adopted.

Public Hearing
(Melcher zone change, 205 N 7th St)

A public hearing was held to consider a zone change from I-1 (Light Industrial District) to C-1 (Local Business District) on property addressed as 205 North 7th Street at the request of Donald E. Melcher. City Planner Valerie Grimes provided information to the Mayor and City Council.

On February 7, 2017, the Norfolk Planning Commission held a public hearing regarding the zone change at 205 North 7th Street. The City Clerk read the Planning Commission's recommendation for approval into the record.

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

Ordinance No. 5453
(Melcher zone change, 205 N 7th St)

Councilmember Lange introduced, seconded by Councilmember Murren, Ordinance No. 5453 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 Granquist, Lange, Merrill, Clausen, Murren, Jackson, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5453 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 Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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 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. 5453 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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. 5453 as required by law.

Public Hearings

(SWAD, LLC)

(South 25th Street and south of Michigan Avenue)

(Michigan Avenue east of 25th Street)

At the request of Dick Johnson, agent for SWAD LLC, combined public hearings were held to consider a zone change from I-1 (Light Industrial) to C-3 (Service Commercial) on property located on South 25th Street and south of Michigan Avenue (this hearing was removed from the October 3, 2016 and the November 7, 2016 City Council agendas at the request of the authorized agent for SWAD, LLC) and to consider a zone change on property at Michigan Avenue east of 25th Street. City Planner Valerie Grimes provided information to the Mayor and City Council.

Councilman Granquist declared a conflict of interest, due to employment with Nucor and a perception of conflict, and did not participate in discussion or voting on items related to the SWAD LLC zoning change requests.

City Planner Valerie Grimes provided information to the Mayor and City Council. Grimes said the 2001 Comprehensive Plan designates both areas as commercial but under the 2017 Comprehensive Plan the areas are designated as mixed commerce. The primary uses of mixed commerce (which is a combination of designations between commercial and industrial uses) accommodates corporate office, research or health facilities and structures that can combine office, distribution, limited industrial uses and auto-based commercial uses.

Dick Johnson, Johnson Engineering, represented SWAD LLC on both zoning change requests. Johnson referred to the properties as the "east property" and the "west property". The "west property" is the land immediately north of the Our Savior Lutheran Church property (former Eagle Distributing facility) which was before the Planning Commission in November, 2015; and the "east property" is between Michigan Avenue east of 25th Street and goes up to Shopko property. Johnson said SWAD feels both properties are in conformance with the land use and "some plans". SWAD has owned these properties for over ten years with little or no luck in having someone develop the land. Johnson said SWAD "wants to take a shot" at commercial use for the property. Johnson said the south line of the property is about 575 feet to the north right-of-way of West Omaha Avenue and there is probably another 75-80 feet across Omaha Avenue to Vulcraft property. SWAD feels this will provide the heavy industrial area with about a 650 foot buffer that would ultimately be I-1 (Light Industrial) and then blend into C-3 north of the church property.

Mayor Moenning asked if Johnson knows of any immediate interest in commercial development on the properties.

Johnson said “not at this time” but SWAD would like to “capture one or more” of the commercial developments occurring around the Norfolk area.

Lange has concerns that, if the zoning change requests are approved, SWAD will come back and ask that the property north of the church be rezoned as well, making the buffer for industry considerably less.

Johnson doesn't know for sure but said that, at this time, there isn't any reason to think that would happen and, if SWAD did want to come back, the City Council “would have a say in it again.”

Jim Cox, on behalf of SWAD LLC, distributed a map from the Olsson Associates Hwy 275 Corridor Future Land Use document. Cox overlaid the map with various colored areas showing land uses. Also distributed was an aerial map that Cox marked with various businesses in the area. Cox said a large portion of the one SWAD property has been purchased by a light industrial company and SWAD intends to keep the buffer Johnson discussed from Omaha Avenue up to 500 feet as light industrial. On the north property, SWAD feels the highest and best use of the land is for commercial development which would then mirror the north side of West Highway 275 development. Cox said it “isn't easy to market the property as light industrial and then telling a prospective buyer they will need to go before the Planning Commission and City Council to request a zoning change.” Therefore, SWAD is trying to “take away that obstacle.”

Mark Fitzgerald, attorney for Vulcraft, Nucor Cold Finish and Nucor Detailing, spoke in opposition to both of the zoning change requests. The SWAD property zoning change request from the 2015 application states the property is for a parking lot as an ancillary use for Our Savior Lutheran Church. The church never needed additional property for a parking lot and the application has become moot because parking lots are permitted in every zone district in the City of Norfolk and off-street parking is required for all new construction. Fitzgerald requested the City Council reject the SWAD zoning change request from 2015. Fitzgerald addressed the 2017 SWAD zoning application (11.59 acres) with a stated reason for the request “to allow for development of the property as commercial,” which is the majority of the SWAD property. Fitzgerald feels the industrially zoned areas need to be protected and this area is also identified in the 2017 Comprehensive Plan as an important industrial area. Page 124 of the Comprehensive Plan states, “Given the extent of existing industrial land use, it is appropriate that the City minimize the need to mitigate between incompatible uses through the clustering of industrial uses.” Fitzgerald feels this means it is important to protect the industrial area but requested clarification of the meaning of the statement.

City Planner Grimes explained that, in talking with Olsson Associates, the sentence means that there is existing industrial currently there and it is encouraged that industrial remain in that area with future industry to be located in that area and that then minimizes what the City needs to do to mitigate between incompatible uses such as buffering, screening and zoning.

Fitzgerald understands the 2017 Comprehensive Plan recognizes this industrial area and recognizes the need to protect this industrial area and the way that is being done is to create a mixed commerce area on the SWAD property. Everything Mr. Cox and Mr. Johnson were talking about is already permitted in the mixed commerce area. Fitzgerald feels the SWAD requests may be an effort to get approval of the commercial zoning prior to final approval of the 2017 Comprehensive Plan. Fitzgerald said the proposed SWAD buffering along Omaha Avenue is inadequate to protect the industrial area. Fitzgerald requested the City Council also reject this SWAD zoning change request.

Mike Chikos, Operations Manager of Nucor Cold Finish, spoke in opposition to the SWAD zoning change requests. Chikos read from the final draft of the 2017 Comprehensive Plan which states the aspirations of the community are reflected in the statement – *One Norfolk Moving Forward*. “As one community moving forward, Norfolk is a vibrant community offering shovel-ready industrial sites; a network of transportation corridors; abundant low cost utilities; diverse educational opportunities and a quality workforce.” Chikos does not believe it is good for this community to eliminate property that is already

suitable for industry and make it unsuitable for industry. This area is prime shovel-ready industrial property. As Fitzgerald stated, the 2017 Comprehensive Plan identifies the SWAD areas as mixed commerce which is intended to provide development that will allow greater flexibility to the City in an effort to develop different types of industrial, commercial and offices services and uses. Chikos' concern with the zoning change requests is the impact on the current industries in this area as well as the impact on future industrial growth in this area. Industries in the City of Norfolk have a vested interest in protecting this industrial area of the City. Chikos agrees with the 2017 Comprehensive Plan designation of the area as mixed commerce.

Grimes gave an overview of I-1 versus C-3 zoning districts with C-3 being the heaviest commercial district, e.g. Walmart, Menards, etc. and I-1 being the lightest industrial district and a transition between heavy industry and commercial areas. Many of the designated uses can be located in both C-3 and I-1 areas.

Johnson said the area north of Our Savior Lutheran "was not going to be an 8 1/2 acre parking lot" but at the time the church was talking about purchasing land from SWAD for additional parking. Johnson understands a mixed commerce designation is for land use and will not be a zoning district in the City of Norfolk with any zoning changes still needing to come before the City Council. Johnson feels C-3 and I-1 are compatible zoning designations and the Comprehensive Plan is a guideline only.

Mayor Moenning questioned whether Johnson stated the parking lot application is irrelevant to the zoning change request.

Johnson agreed the parking lot application "may or may not be relevant to the zoning change request because a parking lot is only one of several hundred uses allowed in C-3 zoning." Johnson "thinks they (SWAD) are looking at something a little different."

Councilmember Murren questioned why SWAD is requesting the change if the C-3 and I-1 zoning designations are comparable.

Johnson said the request is because retail is allowed in C-3.

Mayor Moenning questioned how zoning categories would fit into mixed commerce.

Grimes explained mixed commerce is a Comprehensive Plan designation and not a zoning category; however, mixed commerce includes various zoning categories including I-1, C-3 and B-P.

On November 3, 2015, the Norfolk Planning Commission held a public hearing regarding the zone change on property located on South 25th Street and south of Michigan Avenue. On February 7, 2017, the Norfolk Planning Commission held a public hearing regarding the zone change on property located on Michigan Avenue east of 25th Street. The City Clerk read the Planning Commission's recommendations for approval into the record.

Councilman Lange said nothing prevents SWAD from marketing their property as retail; it only means that, at some point in time, a zoning change request would need to be made but not a Comprehensive Plan change.

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

Ordinance No. 5432
(SWAD, LLC)

(South 25th Street and south of Michigan Avenue)

Councilmember Merrill introduced, seconded by Councilmember Pfeil, Ordinance No. 5432 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.

Councilman Lange has concerns the property owner is “fishing” to see what the property can be sold as because several years ago SWAD wanted to rezone the property as residential. Lange’s greatest concern is that retail would take off and the next step for SWAD would be to request for residential. The history on this piece of property, zoning changes brought forward in the last decade, reflect this as a “fishing” adventure more than anything.

Roll call: Ayes: Councilmember Clausen. Nays: Lange, Merrill, Murren, Jackson, Fauss and Pfeil. Abstaining: Granquist. Absent: None. Motion failed. Ordinance No. 5432 failed on first reading.

Ordinance No. 5454
(SWAD, LLC)

(Michigan Avenue east of 25th Street)

Councilmember Lange introduced, seconded by Councilmember Murren, Ordinance No. 5454 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.

Councilmember Clausen feels the proposed buffer between industry and this SWAD property is adequate and if approved as a C-3 zoning “that would be it” with no further zoning change requests would be considered by the City Council.

Councilmember Lange feels more comfortable with the request for this property but still have some of the same concerns as stated.

Roll call: Ayes: Councilmember Clausen. Nays: Lange, Merrill, Murren, Jackson, Fauss and Pfeil. Abstaining: Granquist. Absent: None. Motion failed. Ordinance No. 5454 failed on first reading.

Regular Agenda Items

Rutjens Construction contract (Southwest Sanitary Sewer Interceptor)

Councilmember Murren moved, seconded by Councilmember Merrill, to approve awarding a contract to Rutjens Construction of Tilden, NE for Alternative No. 1 (ESVCP Pipe) of the Southwest Sanitary Sewer Interceptor - Phase II project for an amount of \$1,361,321.75, which was the lowest bid for all alternatives, to furnish all labor, materials, equipment and all else necessary to properly construction all of the improvements. Sealed bids were received at the February 14, 2017 bid letting. The other bidders were: Penro Construction, \$1,674,129.95; H&W Contracting LLC, \$2,071,453.50; Crow River Construction, \$2,170,695.00; and S.J. Louis Construction, \$2,239,000.00.

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

Ordinance No. 5448 (2017 Comprehensive Plan)

Councilmember Lange introduced, seconded by Councilmember Fauss, Ordinance No. 5448 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 19-5 OF THE OFFICIAL CITY CODE TO ADOPT THE CITY OF NORFOLK COMPREHENSIVE PLAN UPDATE 2017; 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, Jackson, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5448 passed on second reading.

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. 5448 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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. 5448 as required by law.

Ordinance No. 5455 (vendor permits)

Councilmember Pfeil introduced, seconded by Councilmember Murren, Ordinance No. 5455 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTIONS 13-112, 13-113, 13-115, AND 13-116 OF THE OFFICIAL CITY CODE TO

REVISE PROVISIONS RELATED TO ITINERANT MERCHANTS, PEDDLERS, SOLICITORS, STREET VENDORS, AND TEMPORARY MERCHANTS; 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, Jackson, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5455 passed on first reading.

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

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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 Lange, 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. 5455 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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. 5455 as required by law.

Ordinance No. 5456
(fee schedule)

Councilmember Lange introduced, seconded by Councilmember Fauss, Ordinance No. 5456 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 2-5 OF THE OFFICIAL CITY CODE TO CHANGE PERMIT FEES FOR ITINERANT MERCHANTS, PEDDLERS, SOLICITORS, STREET VENDORS, AND TEMPORARY MERCHANTS; TO REMOVE A LIBRARY LATE FEE; TO UPDATE ADMISSION FEES FOR AQUAVENTURE WATER PARK; 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, Jackson, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5456 passed on first reading.

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

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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 Lange, 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. 5456 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Clausen, Murren, Jackson, 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. 5456 as required by law.

U.S. Department of Justice notification
(RLUIPA)

Mayor Moenning read, in part, a letter dated February 14, 2017 from the U.S. Department of Justice: *"In our investigation, we examined whether the City's zoning law and land use matrix treated religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions in the City's I-1 zoning district. We thank you for providing the documents necessary to carry out this investigation in an efficient manner. The Department has determined that the circumstances of this matter do not currently require enforcement by this office. The closing of this investigation should not be constructed as a determination of whether the City did not did not violate RLUIPA and does not foreclose any future action by the Department regarding the City's zoning and land use practices based on new facts that may come to the Department's attention."*

There being no further business, the Mayor declared the meeting adjourned at 7:05 p.m.

Josh Moenning
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, February 21, 2017, 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)