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 5th day of August, 2019, 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, Fred Wiebelhaus, Thad Murren, Gary L. Jackson, Shane Clausen, and Dick Pfeil. Absent: Rob Merrill.

Staff members present were: City Administrator Andy Colvin, City Clerk Beth Deck, Finance Officer Randy Gates, Public Safety Director Shane Weidner, Administrative Secretary Bethene Hoff, Public Works Director Steve Rames, Risk Manager Lyle Lutt, City Planner Val Grimes, Police Chief Don Miller, Police Captain Mike Bauer, Secretary Brianna Duerst and Fire Chief Scott Cordes.

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 Wiebelhaus moved, seconded by Councilmember Jackson to approve the consent agenda as printed. Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. Motion carried.

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

Consent Agenda Items Approved

Minutes of the July 15, 2019, City Council meeting

Minutes of the July 24, 2019, City Council Budget Review Work Session meeting

Minutes of the July 29, 2019, City Council Budget Review Work Session meeting
Minutes of the July 30, 2019, City Council Budget Review Work Session meeting

July sales tax report (May sales)

Resolution No. 2019-40 extending the current E911 surcharge rate through 2020

Award contract to Elkhorn Paving Construction Co., Inc. of Norfolk, Nebraska for the Sidewalk District No. 2019-2 (Square Turn Boulevard) project for an amount of $38,977.76

Advertise for request for proposals for a crack sealing project for the Street Division

Lutheran High School Association of Northeast Nebraska, Incorporated (a Nebraska nonprofit corporation) agreement to use Memorial Football Field, located at Veterans Memorial Park, to hold football games, scrimmages, and practices from September 1, 2019 to November 30, 2019

Lutheran High School Association of Northeast Nebraska, Incorporated (a Nebraska nonprofit corporation) agreement to use the soccer field in Veterans Memorial Park to hold soccer practice, camps, and games from March 1, 2020 through May 31, 2020

Northeast Community College (a political subdivision of the State of Nebraska) agreement to use the softball fields in Ta-Ha-Zouka Park for softball games, practice, clinics, and camps for the 2019-2020 softball season, effective from the date of agreement through June 30, 2020

Northeast Community College (a political subdivision of the State of Nebraska) agreement to use the baseball field at Veterans Memorial Park for baseball practice, clinics, camps, and games (not including tournaments), effective from the date of agreement through June 30, 2020

Northeast Community College (a political subdivision of the State of Nebraska) agreement to use the soccer field in Veterans Memorial Park and the soccer fields in North Pine Park to hold soccer games at Memorial Field and holding soccer practices, clinics, and camps at both Memorial Field and North Pine Park from the date of the agreement through June 30, 2020

Levi Baber, d/b/a Kiwanis Emerging Leaders, agreement to use the softball fields in Ta-Ha-Zouka Park for a kickball tournament on Saturday, August 24, 2019

Purchase a replacement staff truck for the Engineering Division for $28,384 from Courtesy Ford of Norfolk

Sewer Main Easement, on Parcel #9 of Sewer District No. 251 as shown on the Ordinance 5579 map, between Nucor Corporation and the City of Norfolk for the Northeast Industrial Sewer Main project

Sewer Main Easement, on Parcel #7 of Sewer District No. 251 as shown on the Ordinance 5579 map, between Nucor Corporation and the City of Norfolk for the Northeast Industrial Sewer Main project

Sewer Main Easement, on Parcel #6 of Sewer District No. 251 as shown on the Ordinance 5579 map, between Nucor Corporation and the City of Norfolk for the Northeast Industrial Sewer Main project
Sewer Main Easement, on Parcel #5 of Sewer District No. 251 as shown on the Ordinance 5579 map, between Nucor Corporation and the City of Norfolk for the Northeast Industrial Sewer Main project

Sewer Main Easement, on Parcel #3 of Sewer District No. 251 as shown on the Ordinance 5579 map, between Nucor Corporation and the City of Norfolk for the Northeast Industrial Sewer Main project

Special Designated Liquor License for Elkhorn Valley Historical Society, 515 Queen City Boulevard, to serve beer on September 14, 2019 from 12:00 p.m. to 5:00 p.m. for a Fundraiser Harvest Festival.

Bills in the amount of $2,362,897.94

Special Presentations

The Mayor proclaimed August 4-10, 2019 as "National Health Center Week".

Public Hearings and Related Items

Public Hearing
(Amick zone change)

A public hearing was held to consider a zone change from A (Agricultural District) to R-R (Rural Residential District) on property generally located ¼ mile east of 61st Street and West Omaha Avenue at the request of John D. and Amber R. Amick. City Planner Valerie Grimes provided information to the Mayor and City Council. The City Council previously allowed Amick to split off a portion of the property for an acreage with the farm house. Amick submitted another request to split off 20 acres, not 40 acres as required in Agriculture zoning, to sell.

Dave Amick, owner, wanted to clarify with elected officials that the property was purchased four years ago for Amick’s cattle operation and 10 acres was split off for their home. Alex Weaver asked Amick about purchasing 20 acres to build a house. Amick has no intention of selling more property, and Amick “has no interest in developing the property into housing.”

On July 16, 2019, the Norfolk Planning Commission held a public hearing regarding the Amick zone change. 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 zone change and the Mayor declared the hearing closed.

Ordinance No. 5622
(Amick zone change)

Councilmember Lange introduced, seconded by Councilmember Clausen, Ordinance No. 5622 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 Wiebelhaus moved, seconded by Councilmember Jackson, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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 Wiebelhaus moved, seconded by Councilmember Jackson, 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. 5622 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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. 5622 as required by law.

Regular Agenda Items

Motorola Solutions agreement
(Radio system)

Councilmember Wiebelhaus moved, seconded by Councilmember Granquist, to approve an agreement for the Mayor to sign all associated documents with the State of Nebraska and Motorola Solutions, Inc., in the amount of $2,376,393.28 which includes $1,507,033.47 for the replacement of existing city radios, dispatch consoles and radio system infrastructure that will fully integrate into the Statewide Radio System as well as an additional ten (10) year system warranty for a total warranty period of eleven (11) years.

Public Safety Director Shane Weidner provided information to elected officials.

Mayor Moenning said this system will “position the City of Norfolk as a possible regional dispatch center.”

Ordinance No. 5623
(Public Safety tax anticipation bonds)

Councilmember Wiebelhaus introduced, seconded by Councilmember Murren, Ordinance No. 5623 entitled: AN ORDINANCE AUTHORIZING THE ISSUANCE OF PUBLIC SAFETY EQUIPMENT TAX ANTICIPATION BONDS OF THE CITY OF NORFOLK, NEBRASKA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION FOUR HUNDRED THOUSAND DOLLARS ($2,400,000) FOR THE PURPOSE OF PURCHASING PUBLIC SAFETY VEHICLES AND PUBLIC SAFETY EQUIPMENT AND MISCELLANEOUS COSTS ASSOCIATED THEREWITH; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AUTHORIZING OFFICERS OF THE CITY TO MAKE ARRANGEMENTS FOR THE SALE OF THE BONDS AND TO DESIGNATE THE FINAL TERMS, RATES AND MATURITY SCHEDULE FOR SAID BONDS WITHIN STATED PARAMETERS; AND ORDERING THE ORDINANCE PUBLISHED 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 Lange moved, seconded by Councilmember Granquist, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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 Granquist, 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. 5623 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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. 5623 as required by law.

Resolution No. 2019-41
(Sunset Plaza Mall - enhanced employment area)

Councilmember Lange moved, seconded by Councilmember Jackson, to adopt Resolution No. 2019-41 approving designating the Sunset Plaza Mall, excluding the lot containing the Target
store, an enhanced employment area eligible for imposition of an occupation tax pursuant to the Community Development Law.

Finance Officer Randy Gates provided information to elected officials. The Sunset Plaza Mall was originally designated an enhanced employment area (EAA) on June 4, 2018 with Resolution No. 2018-29. Since this area hasn’t been declared blighted and substandard, the Community Development Law (CDL) requires the project result in at least 10 new employees and an investment of $500,000. The CDL defines "new employees" as the number of equivalent employees employed in an enhanced employment area (EEA) in excess of the number of equivalent employees during the year immediately prior to the year the EEA was designated. Resolution No. 2018-29 was approved by the City Council on June 4, 2018 making the base year for determining number of new employees 2017. With the closure of Herberger’s in 2018, it is not possible to meet the requirement of 10 new employees if the base year remained 2017.

The owners of the Mall, therefore, requested the City rescind Resolution No. 2018-29, which was done with Resolution 2018-67 on December 3, 2018. The owners are now requesting the Mall be redesignated an EEA eligible for imposition of an occupation tax pursuant to the CDL. The owners propose a 1% occupation tax on essentially the same items that are subject to sales tax. This occupation tax will be utilized for up to 20 years to pay debt service on debt used for improvements to the interior and exterior of the mall and parking lot. With Herberger’s closing, a significant portion of the funding is expected to be used for leasehold improvements for new tenants. The City will collect the tax and keep 2% for costs of administering the program. This tax will be administered in much the same way as the City's current food and beverage occupation tax. This is similar to tax increment financing; but instead of incremental real estate taxes being used to pay the debt, occupation tax is used. The debt is only payable from the occupation tax and is not an obligation of the City. The owners met with the Mall's tenants and indicate the tenants were excited about the project and there was no real opposition to the occupation tax that will fund the improvements.

Michael Carter, legal counsel for the Sunset Plaza, explained the revenue from the occupation tax will be used to redevelop the Herberger’s area for 3-5 tenants which requires new frontage for each business, separate walls and utilities and for façade and paving improvements. There are some site plans for out lots but no tenants at this time.


McLaury Engineering, Inc.
(Contract)

Councilmember Pfeil moved, seconded by Councilmember Jackson, to approve an engineering services contract for construction engineering with McLaury Engineering, Inc. for the Gap Paving District No. 515 (Square Turn Blvd), Sidewalk District No. 2019-2 and Paving District No. 513 (Georgia Avenue) projects for a total project cost of $59,500.00.

Councilmember Lange introduced, seconded by Councilmember Jackson, Ordinance No. 5624 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND VARIOUS SECTIONS OF THE OFFICIAL CITY CODE TO CHANGE THE TWO-WORD TERM “STORM WATER” TO THE ONE-WORD TERM “STORMWATER” TO COINCIDE WITH THE ONE-WORD REFERENCE USED BY THE ENVIRONMENTAL PROTECTION AGENCY; TO ENACT SECTION 26-201 TO PROVIDE FOR A STORMWATER FEE TO BE CHARGED TO ALL CUSTOMERS OF CITY WATER AND/OR CITY SEWER FOR STORMWATER REGULATORY COMPLIANCE AND THE USE, UPKEEP AND MAINTENANCE OF THE CITY’S STORMWATER COLLECTION SYSTEM; 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 Steve Rames said the fee will be used to keep the City of Norfolk in compliance with federal regulations. Rames said Kearney, Fremont, Columbus and Grand Island all have similar stormwater fees.


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

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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 Jackson, 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. 5624 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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. 5624 as required by law.
Rutjens Change Order No. 2  
(Northeast Industrial Sanitary Sewer Extension, Phase II)

Councilmember Lange moved, seconded by Councilmember Jackson, to approve Change Order No. 2 with Rutjens Construction, Inc. for the Northeast Industrial Sanitary Sewer Extension, Phase II (Sanitary Sewer Extension District No. 251) resulting in a net increase of $27,700.75.


Rutjens Change Order No. 2  
(Northeast Industrial Water Main Project)

Councilmember Pfeil moved, seconded by Councilmember Granquist, to approve Change Order No. 2 with Rutjens Construction, Inc. for the Northeast Industrial Water Main project resulting in a net decrease of $10,276.09.


McLaury Engineering, Inc.  
(Wet Michigan Avenue/8th Street Drainage Study)

Councilmember Granquist moved, seconded by Councilmember Lange, to approve an engineering design services contract with McLaury Engineering, Inc. for the West Michigan Avenue and 8th Street Drainage Study project for an amount not to exceed $43,000.00.


Elkhorn Paving Construction, Inc.  
(Concrete Improvements 2019-1)

Councilmember Granquist moved, seconded by Councilmember Murren, to approve Change Order No. 2 with Elkhorn Paving Construction, Inc. for the Concrete Improvements 2019-1 (Prospect Avenue - 27th Street to Ridgeway Avenue & the 1300 Block of Monroe Avenue) project resulting in a net increase of $6,400.00.


JEO Consulting Group, Inc.  
(Norfolk Johnson Park Improvements)

Councilmember Pfeil moved, seconded by Councilmember Granquist, to approve Amendment No. 1 to the Engineering Services Contract with JEO Consulting Group, Inc. for the Norfolk Johnson Park Improvements project for a net increase of $19,000.00.

Ordinance No. 5625
(T-Ha-Zouka Road and Monroe Avenue parking restrictions)

Councilmember Wiebelhaus introduced, seconded by Councilmember Granquist, Ordinance No. 5625 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-164 OF THE OFFICIAL CITY CODE TO RESTRICT PARKING ON BOTH SIDES OF TA-HA-ZOUKA ROAD FROM 13TH STREET TO 15TH STREET, BOTH SIDES OF 15TH STREET FROM TA-HA-ZOUKA ROAD TO 575 FEET NORTH OF THE NORTH CURB LINE OF MONROE AVENUE, AND BOTH SIDES OF 16TH STREET FROM MONROE AVENUE TO 1150 FEET NORTH OF THE NORTH CURB LINE OF MONROE 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.


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


Thereafter Councilmember Lange 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. 5625 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Merrill. 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. 5625 as required by law.
There being no further business, the Mayor declared the meeting adjourned at 6:42 p.m.

Jim Lange
Council President

ATTEST:

Elizabeth A. Deck
City Clerk

I, the undersigned Clerk, hereby certify that the foregoing is the full, true and correct original document of proceedings of Monday, August 5, 2019, 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 contemporaneously current and available for public inspection at the office of the Clerk; that such minutes 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