

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 20th day of July, 2020, 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: Jim Lange, Fred Wiebelhaus, Thad Murren, Gary L. Jackson, Shane Clausen, and Dick Pfeil. Absent: Corey Granquist and Rob Merrill.

Staff members present were: City Administrator Andy Colvin, City Attorney Danielle Myers-Noelle, City Clerk Brianna Duerst, 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, and Police Chief Don Miller.

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

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

Consent Agenda Items Approved

Minutes of the July 6, 2020, City Council meeting

Food & beverage and lodging occupation tax report for 2nd quarter 2020

Forward no recommendation to the Nebraska Liquor Control Commission on the Manager Application of Douglas M. Brozek in connection with the Class C liquor license of Knights of Columbus 1793, 105 Elm Avenue

Resolution No. 2020-27 releasing the 10 foot utility easement (5 feet on each side of the common lot line) between lots One and Two, less the East 10 foot thereof, of Prairie View Estates to Stanton County, Nebraska

City of Madison building inspection services agreement on a contract basis

Norfolk Arts Center, a Nebraska Nonprofit Corporation, agreement allowing Johnson Park to be used to conduct various activities for a Fork Fest event including but not limited to live music performances, food truck vendors, beer garden, and artist/vendor sidewalk sale, to be held Friday, August 21, 2020, from 5:00 p.m. to 10:00 p.m.

School District No. 2 of Madison County, Nebraska (also known as Norfolk Public Schools and a Political Subdivision of the State of Nebraska) agreement allowing the use of Skyview Park facilities to be used for the purpose of holding the high school graduation rehearsal and ceremony on Thursday, July 23, 2020 and Sunday, July 26, 2020

Paulyns Dancewear/Dance Studio, Inc., a Nebraska Corporation, agreement allowing the use of the covered stage in Skyview Park to hold multiple performances for its dance recital from Friday, July 31, 2020 through Sunday, August 2, 2020

Revision to COVID-19 Addendum to Agreement for Use of Municipal Facilities for Sports or Other Group Recreational Activities form to be completed and attached to agreements with individuals or organizations utilizing City facilities for adult and/or youth team sports and other group recreational activities

Bills in the amount of \$1,288,363.56

Public Hearings and Related Items

Public Hearing

(City of Norfolk zone change, Hespe Drive and Country Club Road)

A public hearing was held to consider a zone change from O-D (Office District) to R-3 (Multiple-family Residential District) on property generally located at Hespe Drive and Country Club Road at the request of the City of Norfolk. City Planner Valerie Grimes provided information to the Mayor and City Council. Grimes said code was changed in 2016 which made multi-family uses a conditional use permit in O-D zoning, making the homes in the area non-conforming. The proposed zone change aligns with the current use.

On July 7, 2020, the Norfolk Planning Commission held a public hearing regarding the City of Norfolk's zone change request. 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. 5674

(City of Norfolk zone change, Hesse Drive and Country Club Road)

Councilmember Lange introduced, seconded by Councilmember Murren, Ordinance No. 5674 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 Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and Merrill. Motion carried. Ordinance No. 5674 passed on first reading.

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

Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and 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 Pfeil, 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. 5674 be passed and adopted?"

Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and 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. 5674 as required by law.

Public Hearing

(Greater Norfolk Economic Development Foundation (GNEDF) zone change)
(Omaha Avenue and east of 37th Street)

A public hearing was held to consider a zone change from A (Agricultural District) to I-1 (Light Industrial District) on property generally located north of Omaha Avenue and east of 37th Street at the request of Greater Norfolk Economic Development Foundation (GNEDF). City Planner Valerie Grimes provided information to the Mayor and City Council. Grimes stated the proposed zone change is compliant with the Comprehensive Plan.

On July 7, 2020, the Norfolk Planning Commission held a public hearing regarding the GNEDF's zone change. 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. 5675

(Greater Norfolk Economic Development Foundation (GNEDF) zone change)
(Omaha Avenue and east of 37th Street)

Councilmember Wiebelhaus introduced, seconded by Councilmember Lange, Ordinance No. 5675 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 Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and Merrill. Motion carried. Ordinance No. 5675 passed on first reading.

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

Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and 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. 5675 be passed and adopted?"

Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and 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. 5675 as required by law.

Regular Agenda Items

Resolution No. 2020-28
(Bradford Business Park Subdivision final plat)

Councilmember Lange moved, seconded by Councilmember Wiebelhaus, for adoption of Resolution No. 2020-28 approving the final plat, subdivision agreement and post construction stormwater management plan maintenance agreement and easement of Bradford Business Park Subdivision.

Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil.
Nays: None. Absent: Granquist and Merrill. Motion carried. Resolution No. 2020-28 was adopted.

Midwest Right of Way Services, Inc. agreement
(Benjamin Avenue Phase I Appraisals project)

Councilmember Pfeil moved, seconded by Councilmember Jackson, for approval of a professional services consultant agreement with Midwest Right of Way Services, Inc. for the Benjamin Avenue Phase I Appraisals project for a maximum fee of \$101,870.00.

City Engineer Steven Rames provided information to elected officials. The project involves the acquisition of right of way, permanent easements, temporary easements and other services necessary for the Benjamin Avenue Improvement project. The project will require the acquisition of right of way and easements from sixty-one property owners. The current plan is to complete the right of way process for this project in two phases. Phase I - appraisals will determine the value of the right of way and easements to be acquired. Phase II Acquisition will complete the negotiation and acquisition of the necessary right of way and easements to construct the project.

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

Resolution No. 2020-29
(Dave Remter Sidewalk Waiver, 1500 and 1510 North Eastwood Avenue)

Councilmember Jackson moved, seconded by Councilmember Lange, for approval of Resolution No. 2020-29 approving a sidewalk waiver requested by Dave Remter for property located at 1500 North Eastwood Avenue and 1510 North Eastwood Avenue. City Planner Val Grimes provided information to elected officials. Grimes said the property is located on the east side of Eastwood Street in Stanton County. The applicant is requesting a waiver of the sidewalk requirement as there are no other connecting sidewalks in the area. The frontage for the two lots is approximately 350 feet. Grimes noted the resolution states the temporary waiver is in effect until sidewalks are installed in the abutting area, that the site plan shall include provisions for grading and grading for future sidewalk installation and that the City Council reserves the right to request the installation of sidewalks at any time. Grimes noted the Planning Commission recommendation was to approve the waiver with the stipulations included in the resolution.

Jackson discussed the difficulty previous sidewalk waivers have presented and the process of ordering sidewalks in due to installation of abutting sidewalks or expirations of waivers.

Roll call: Ayes: Councilmembers Lange, Murren and Clausen. Nays: Councilmembers Wiebelhaus, Jackson and Pfeil. Absent: Granquist and Merrill. Motion failed. Resolution No. 2020-29 was not adopted.

Nebraska Central Railroad letter agreement
(rehabilitation of 4th Street railroad crossing)

Councilmember Pfeil moved, seconded by Councilmember Murren, for approval of a letter agreement from the Nebraska Central Railroad for the rehabilitation of the 4th Street railroad crossing for a cost of \$51,059.23.

City Engineer Steven Rames provided information to elected officials. The project includes removal of existing concrete road and sidewalk crossings and replacing with a new 88 foot concrete road crossing and sidewalk crossing including a new 136 lb. rail, track ties, ballast, sub-base material, and all other required material. Costs will be shared between the City of Norfolk and the Railroad, with the City paying the costs of material and the Railroad paying the cost of labor and equipment.

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

Beckenhauer Construction contract award
(River Point Square & 3rd Street Alley Project)

Councilmember Pfeil moved, seconded by Councilmember Jackson, for approval of awarding a contract to Beckenhauer Construction Inc. of Norfolk, Nebraska for the River Point Square & 3rd Street Alley project for an amount of \$595,999.00 to furnish all labor, materials, equipment and all else necessary to properly construct the project. One sealed bid was received at the June 26, 2020 bid letting.

City Engineer Steven Rames provided information to elected officials. The contract will include the base bid of \$569,853.00 plus alternates 1 through 6 for a total contract of \$595,999.00. Rames further discussed other funding sources for the project.

Moenning said a large portion of the project is being paid for by grants. Moenning noted the City competed for these funds and the funds can only be used for quality of life improvements. This project will help create a welcoming environment to the downtown area.

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

River Oaks Communications Corporation letter agreement
(Small Wireless Facilities Ordinance project)

Councilmember moved, seconded by Councilmember Jackson, for approval of a letter agreement with River Oaks Communications Corporation for the Small Wireless Facilities Ordinance project for an amount not to exceed \$5,820.00..

City Engineer Steven Rames provided information to elected officials. The agreement provides for review of current draft of the small wireless facilities ordinance and to provide suggested edits to the draft ordinance, incorporate key best practices from other jurisdictions, and look for consistency with Federal laws and Nebraska law.

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

Maple Park Court, LLC and Miller settlement
(eminent domain award, recreational trail easement)

Mayor Moenning requested a motion to go into closed session for the protection of the public interest to discuss the potential settlement of pending litigation in the case Maple Park Court, L.L.C. and Michael A. and Lori K. Miller vs. City of Norfolk for a total amount of \$110,000.00

Councilmember Wiebelhaus moved, seconded by Councilmember Lange to adjourn from regular session and convene into closed session at 6:13 p.m. Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Granquist and Merrill. Motion carried.

The Mayor, City Council members and staff returned to the Council Chamber at 6:50 p.m.

Councilmember Wiebelhaus moved, seconded by Councilmember Jackson to adjourn from closed session at 6:51 p.m. and reconvene into regular session. Roll call: Ayes: Councilmembers Lange, Wiebelhaus, Murren, Jackson, Clausen and Pfeil. Nays: None. Absent: Granquist and Merrill. Motion carried.

Councilmember Lange moved, seconded by Councilmember Jackson, for approval to authorize staff to move forward with settlement of the Madison County District Court case Maple Park Court, L.L.C. and Michael A. Miller and Lori K. Miller vs. City of Norfolk, which is an appeal of an eminent domain award for a recreation trail easement, for a total amount of \$110,000.00

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

There being no further business, the Mayor declared the meeting adjourned at 6:52 p.m.

Josh Moenning
Mayor

ATTEST:

Brianna Duerst
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, July 20, 2020, 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.

Brianna Duerst
City Clerk

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