

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 18th day of October, 2021, 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, Frank Arens, Andrew McCarthy, Thad Murren, Gary L. Jackson, Shane Clausen, and Kory Hildebrand. Absent: Rob Merrill.

Staff members present were: City Administrator Andy Colvin, City Attorney Danielle Myers-Noelle, City Clerk Brianna Duerst, 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 Jackson moved, seconded by Councilmember Clausen to approve the consent agenda as printed. Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

Councilmember Granquist moved, seconded by Councilmember Murren to adopt the full agenda as printed. Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

Consent Agenda Items Approved

Minutes of the October 4, 2021, City Council meeting

September 2021 Keno comparison report

Food & beverage and lodging occupation tax for 3rd quarter 2021

Mayor's reappointment of Linda Hammond to the Tree Advisory Board for a three-year term ending September 2024

Mayor's reappointment of Dirk Waite and Randy Wilcox to the Board of Zoning Adjustment for terms expiring August 2024

Elkhorn Valley Bank Right of Way Agreement and Acceptance, Temporary Construction Easement, Real Estate Purchase Agreement, and Warrant Deed for the Benjamin Avenue from 13th to 1st Street construction project for \$96,790.00

Ratify the Mayor signing a Special Designated Liquor License for District TT Hospitality, LLC, 226 W. Norfolk Ave., Norfolk, Nebraska, to serve beer and wine at the Lifelong Learning Center, 801 E Benjamin Ave., on Tuesday, October 26, from 4:00 p.m. to 8:00 p.m. for the NECC Achievement Awards event

Issue a letter to the property owner of 1307 South 4th Street to repair the sidewalk according to Section 22-23 of the City Code

Norfolk and Valley Drive Properties Easement Agreement for maintenance of a private storm drainage system over Lot 1, Elkhorn River Plaza Subdivision

Bills in the amount of \$3,372,072.37

Special Presentations

Linda Hammond, City of Norfolk Tree Advisory Board presented the 2021 Green Leaf Business Award to the Madison County Extension Office, and the 2021 Green Leaf Residential Award to Carol Severa, 1622 Koenigstein Ave and Scott and Donna Andrews, 1403 Valli Hi Rd.

Public Hearings and Related Items

Public Hearing

(Carlson zone change, 49th Street & Benjamin Avenue)

A public hearing was held to consider a zone change from A (Agricultural District) to R-R (Rural Residential District) on property generally located ½ mile northwest of the intersection of 49th Street and Benjamin Avenue at the request of Gary W. and Lynn K. Carlson, and Jacob A. Carlson. City Planner Valerie Grimes provided information to the Mayor and City Council. Grimes said the property is in the wellhead protection area, which allows for four wells and septic systems per quarter-quarter section. There is currently one residence with a private well and septic system so, a maximum of three more could potentially be added. Grimes also noted if the rezoning is approved and the lots are over 10 acres, a plat would not be brought before council for approval.

Dave Copple, representing the applicant, said the property consists of 34.92 acres that will be

divided into three 11.63 acre lots. Copple addressed previous questions regarding access. Copple said City Engineer Steven Rames and Dick Johnson looked at the access and previous concerns over the issue had been resolved. Copple also said the properties will have private well and septic systems.

City Engineer Steven Rames discussed access for the site and said all three approaches would have adequate site distances.

Councilmember Jackson discussed the proximity of the property to current city limits and the impact of large lots close to city limits.

Grimes summarized further discussion from the Planning Commission public hearing. Grimes said there was discussion regarding large lots on the city's western boundary and the Comprehensive Plan designation for the area, which is agricultural.

Councilmember Arens said concerns over the wellhead, site plan and access had been resolved but expressed concern that the request does not conform to the Comprehensive Plan.

On October 5, 2021, the Norfolk Planning Commission held a public hearing regarding the Carlson 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. 5751

(Carlson zone change, 49th Street & Benjamin Avenue)

Councilmember Granquist introduced, seconded by Councilmember Murren, Ordinance No. 5751 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; ANDPROVIDING 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: Councilmembers Granquist, McCarthy, Murren and Clausen. Nays: Arens, Jackson and Hildebrand. Absent: Merrill.

Mayor Moenning did not vote on the issue and, therefore, Ordinance No. 5751 failed.

Public Hearing

(Geary zone change, Highway 35 and East Benjamin Avenue)

A public hearing was held to consider a zone change from R-1 (Single Family Residential District) to R-R (Rural Residential District) on property generally located southeast of the intersection at Highway 35 and East Benjamin Avenue at the request of Aaron Geary. City

Planner Valerie Grimes provided information to the Mayor and City Council. Grimes said the property contains 43.4 acres, of which 15.02 acres is in the floodplain. The applicant is looking to plat off and sell the northernmost 6-acres of the property. Grimes noted if the zoning change failed, six months would need to elapse before another zoning change request was brought before the council. Grimes discussed an alternative option of tabling the ordinance and having the applicant come back with another request to change the zoning on only the 6-acre parcel they are looking to sell and leaving the rest of the property the current zoning designation of R-1.

Aaron Geary, applicant, spoke to the request and discussed the challenges with the property in relation to the flood plain and access. Geary said access to the proposed 6-acre lot would be off the neighboring parcel to the east through a 25' easement off Benjamin Avenue. Geary also said he would not be opposed to voluntarily annexing his property.

City Engineer Steven Rames discussed city water and sewer availability and the complexities of access for the property.

On October 5, 2021, the Norfolk Planning Commission held a public hearing regarding the Geary 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. 5752

(Geary zone change, Highway 35 and East Benjamin Avenue)

Councilmember Arens introduced, seconded by Councilmember Granquist, Ordinance No. 5752 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.

Councilmember Hildebrand moved, seconded by Councilmember Murren, that Ordinance No. 5752 be tabled until further questions could be addressed.

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill. Motion carried. Ordinance No. 5257 was tabled.

Public Hearing

(Donnelly Platt zone change, 118 South 13th Street)

A public hearing was held to consider a zone change from C-3 (Service Commercial District) to R-3 (Multiple Family Residential District) on property addressed as 118 S. 13th Street at the request of Marie J. Donnelly (Platt). City Planner Valerie Grimes provided information to the Mayor and City Council. Grimes said the property currently has a non-conforming house. The applicant

hopes to make the basement habitable but, to do so, would need to change the zoning to a residential district as the city does not allow expansion of a non-conforming use. Grimes also discussed zoning of the city's corridors and said the applicant would not be opposed if the zoning of the property was changed back to a commercial district after the building permit was issued to make improvements to the basement.

Councilmember Hildebrand asked about the multi-family zoning district request. Grimes confirmed that the intent is to keep the property a single-family residential use but, the adjacent residential zoning is R-3, which is why the request is R-3.

On October 5, 2021, the Norfolk Planning Commission held a public hearing regarding the 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. 5753

(Donnelly Platt zone change, 118 South 13th Street)

Councilmember Jackson introduced, seconded by Councilmember Clausen, Ordinance No. 5753 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: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill. Ordinance No. 5753 passed on first reading.

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

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill. 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 Granquist moved, seconded by Councilmember Clausen, 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. 5753 be passed and adopted?"

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill. 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. 5753 as required by law.

Regular Agenda Items

J. H. Hespe Co., Inc. Change Order No. 1
(Police Parking Lot Expansion – 2021 project)

Councilmember Granquist moved, seconded by Councilmember Jackson, for approval of Change Order No. 1 with J.H. Hespe Co., Inc. for the Norfolk Police Division Parking Lot Expansion - 2021 project resulting in a net increase of \$7,003.50.

Public Works Director Steven Rames provided information to elected officials. Change Order No. 1 provides for the removal of 1 foot of bad soil, haul to wastewater treatment plant, and importing 1 foot of clay fill across the site resulting in a new contract amount of \$177,630.27.

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

Penro Construction Co., Inc. Change Order No. 1
(Legacy Bend Fourth and Fifth Addition Utility and Paving Improvements Project)

Councilmember Granquist moved, seconded by Councilmember Arens, for approval of Change Order No. 1 Final with Penro Construction Co., Inc. for the Legacy Bend Fourth and Fifth Addition Utility and Paving Improvements project resulting in a net increase of \$6,804.55.

Public Works Director Steven Rames provided information to elected officials. Change Order No. 1 provides for adjusting bid quantities to final quantities for a new contract amount of \$1,438,282.60.

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

North Fork Area Transit, Inc. (NFAT)
(outline operational relationship)

Councilmember Granquist moved, seconded by Councilmember Hildebrand, for approval of an agreement between the City of Norfolk and North Fork Area Transit, Inc. (NFAT) to formally outline the operational relationship.

Public Works Director Steven Rames provided information to elected officials. Per the agreement, the City agrees to dedicate a one-time startup funding for a FlexRoute transit system in the amount of \$201,200.00. The City further agrees to dedicate annual funding of \$108,333.00 for ongoing operations. This agreement automatically extends for one year periods after

September 30, 2022.

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

Closed Session

Discuss Potential Litigation

Councilmember Arens moved, seconded by Councilmember Hildebrand, to adjourn from regular session and convene into executive session at 6:47 p.m. to discuss potential litigation.

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

Councilmember Granquist moved, seconded by Councilmember Clausen, to adjourn from executive session and reconvene into regular session at 7:03 p.m..

Roll call: Councilmembers Granquist, Arens, McCarthy, Murren, Jackson, Clausen and Hildebrand. Nays: None. Absent: Merrill.

Mayor Moenning restated for the record that the only item discussed during the executive session was potential litigation.

There being no further business, the Mayor declared the meeting adjourned at 7:04 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, October 18, 2021, 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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