

**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 December, 2023, 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, Justin Webb, Andrew McCarthy, Thad Murren, Justin Snorton, Shane Clausen and Kory Hildebrand. Absent: None.

Staff members present were: City Administrator Andy Colvin, City Attorney Danielle Myers-Noelle, City Clerk Brianna Duerst, Finance Officer Randy Gates, Administrative Secretary Bethene Hoff, Public Works Director Steve Rames, Assistant City Engineer Anna Allen, Operations Manager Lyle Lutt, City Planner Val Grimes, Housing Director Gary Bretschneider, Streets Supervisor Will Elwell, Street Shop Supervisor Matt Ernesti, Parks and Recreation Director Nathan Powell, Assistant Parks and Recreation Director PJ Evans, Parks and Recreation Administrative Assistant Jen Olson, Communications Manager Nick Stevenson, Economic Development Director Candice Alder, Water and Sewer Director Chad Roberts, 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 Hildebrand moved, seconded by Councilmember Clausen to approve the consent agenda as printed. Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None.

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

### **Consent Agenda Items Approved**

Minutes of the December 4, 2023, City Council meeting

Keno comparison report for November 2023

Purchase a fleet truck and support equipment for plowing snow using funding allotted for FY 2023-2024 off of State Contract #15811

Mayor's reappointment of Councilman Thad Murren, Councilman Justin Snorton, and Councilman Andrew McCarthy to the Railroad Transportation Safety District for a one-year term as required by state statute

Resolution 2023-65 approving the final plat and subdivision agreement for Wyndham Hills 7th

Norfolk Senior Citizen's Center, Inc., a Nebraska Nonprofit Corporation, agreement for a one-time monetary donation of \$80,000 from the City primarily to fund repairs to the Center's HVAC system

Bills in the amount of \$4,115,669.36

### **Special Presentations**

Check presentation from Mike Wingate, Tom Schueth and Bryan Adams for new pickleball courts at Liberty Bell Park

Parks and Recreation Director Nathan Powell presented a Parks and Recreation Master Plan update

### **Public Hearings and Related Items**

#### Public Hearing

(Citizen Advisory Review Committee (CARC) findings and suggestions)

A public hearing was held to receive a report on findings and suggestions from the economic development Citizen Advisory Review Committee as required by State Statutes Section 18-2715. Finance Officer Randy Gates provided information to the Mayor and City Council. State Statutes require a Citizen Advisory Review Committee (CARC). The citizens serving on CARC are: Cindy Morrow, Brandon Day, Aaron Otten, Jan Einspahr and Kathie Means. The City's Finance Officer serves as an ex officio non-voting member of CARC. State Statutes require the CARC to meet at least once in every six-month period and to report to the City Council on its findings and suggestions at a public hearing called for that purpose. The committee reviewed and discussed the following: 1) Current funding. 2) Projects with LB 840 loans outstanding. 3) CARC findings and suggestions for public hearing. As noted in the CARC report, the CARC found that the City's Economic Development Program (EDP) is operating in compliance with the budget and the voter-approved economic development plan.

This item was for informational purposes only.

**Public Hearings and Related Items**  
(Sunset Plaza Redevelopment Plan)

A public hearing was held to consider the Redevelopment Plan for the Sunset Plaza Redevelopment Project. Finance Officer Randy Gates provided information to elected officials. The Project Site is approximately 20.68 acres of developed property. The Redevelopment Project will consist of the renovation and rehabilitation of the existing Sunset Plaza Mall and it is anticipated that the associated renovations will occur in two phases.

First, Redeveloper intends to undertake the renovations required by Kohl's, Planet Fitness and TJ Maxx in order to secure their occupancy (referred to herein as "Phase One"). The construction undertaken as part of Phase One will focus on retrofitting the prior Herberger's space into three separate spaces (anticipated to be Kohl's, Planet Fitness and TJ Maxx). The Phase Two renovations will include, without limitation, replacement and/or repair of the associated sidewalks and parking lots, landscaping, exterior façade enhancements, renovation of hallways and food court, and interior tenant improvements for the remainder of the mall.

While Redeveloper may be able to undertake the initial renovations without TIF, it could not complete the broader rehabilitation of Sunset Plaza Mall. As such, the Redevelopment Project could not be completed without the assistance of TIF - irrespective of the timing of Redeveloper's commencement on the initial renovations. The cost of public improvements, site acquisition, and other TIF-eligible costs are expected to be approximately \$15,463,466. Total project costs, including private improvements, are expected to be more than \$22,500,000.

The Redeveloper is requesting TIF in the amount of \$3,500,000. The developer has indicated the Project is not economically feasible without TIF. Without TIF, the Redevelopment Project's average ROI over a five-year period is estimated to be 4.76%. With TIF, the Redevelopment Project's ROI over the same period is estimated to be 9.83%, which would be an acceptable ROI to prudent investors and lenders, thus making the Redevelopment Project financially feasible.

Andrew Willis, 233 S 13th St, Lincoln, representing the developer, said TIF is needed for Phase II. A 24-month construction is anticipated for Phase II. Willis spoke to the "but-for" test and said community development law states that a redevelopment project can be approved if it is found that the redevelopment project would not be economically feasible without the use of TIF, the project would not occur without TIF, and the cost and benefits are in the long-term best interest of the community. Willis said the "but-for" test does not mean nothing is going to happen, it means the project, as presented in the redevelopment plan, will not happen without the use of TIF. Without TIF, the Phase II renovations – parking lot repair/replacement, façade enhancements, food court, hallways, and restroom renovations, and interior tenant space improvements, don't happen.

The \$3.5 million TIF request is based on a base value of \$4.5 million, which was the valuation of the property prior to the purchase. If the base value ends up being higher, the amount of TIF decreases.

Councilmember Webb asked why Phase I is included in the application if TIF is not needed for that phase of the project. Willis explained that is because everything is on one lot. The phases are construction phases, this is not a phased TIF project.

Jim McKenzie, 1412 Longhorn Drive, said while he understands the desire to support the project, he has concerns with the redevelopment plan and TIF amount. The plan includes Phase I costs, which are not eligible, and Phase II costs, which are eligible. The development plan gives the developer the benefit of TIF on the Phase I improvements by allowing the base value to omit the Phase I costs but allowing the final assumed value to include Phase I costs. If the current assessed value and Phase I improvements were used as the base value, the amount of TIF would be reduced by 60%. McKenzie said this plan is unique as it allows the developer to recoup tax benefits in excess of the Phase II improvement costs, and recommends the city submit the plan to the State Auditor for his review prior to approval to make sure the plan follows state statute.

Austin Hagood, 1503 W Norfolk Ave, representing the Chamber of Commerce, said the Chamber Board fully supports the project and presented a letter of support.

Michael Sands, 1700 Farnam St, City of Norfolk's TIF counsel, discussed eligibility of costs and how the law looks at a TIF project. Sands said the project presented, despite the unusual timeframe, is a single project. Sands said he has no concerns with the plan being sent to the State Auditor for review, and said he has zero doubt that what is being presented is legal under the community development law. While he realizes the plan is unique, it does nothing to affect the eligibility of TIF. Sands said the dividing line between base value and incremental value is determined by the notice to divide filed with the county, there is nothing else that legally determines that.

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

Resolution No. 2023-66  
(Sunset Plaza Redevelopment Plan)

Councilmember Arens moved, seconded by Councilmember Murren, for adoption of Resolution No. 2023-66, approving the Redevelopment Plan for the Sunset Plaza Redevelopment Project.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Resolution No. 2023-66 was adopted.

**Regular Agenda Items**

Village of Hadar interlocal agreement  
(Northeast Nebraska Regional Land Bank)

Councilmember Granquist moved, seconded by Councilmember McCarthy, for approval of an interlocal agreement with the Village of Hadar, a Municipal Corporation, for the creation and organization of the Northeast Nebraska Regional Land Bank.

Councilmember Arens noted a conflict and abstained from discussion and voting on the next three agenda items related to the Land Bank.

City Attorney Danielle Myers-Noelle provided information to elected officials. The original Nebraska Municipal Land Bank Act was passed in 2013 in response to concerns over the increase in dilapidated properties in Omaha and Sarpy County, and as a creative solution to provide tools needed to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use. In 2020, LB424 passed, allowing all cities to take advantage of such land bank legislation. Only Omaha and Lincoln can have stand-alone land banks. All other municipalities are required to join with others. Due to the proximity of the Village of Hadar, and the desire to grow a new land bank, it was decided the best way to start the land bank was with the Village of Hadar as our first partner.

The interlocal agreement defines certain key terms under the Land Bank Act, it creates and provides for the organization of the Land Bank, it speaks to the purposes and powers of the Land Bank, the legal requirements for Board Members, the General Fund creation, and the initial anticipated allocation of costs between City of Norfolk and Village of Hadar, the Project initiation requirements, the process for the admission of future member municipalities, and the Dissolution process. This agreement, combined with the Land Bank Act and the Bylaws, are the governing documents for this Land Bank.

Housing Director Gary Bretschneider said the goal of the Land Bank is to increase the number of properties that can be used to better the community.

Roll call: Ayes: Granquist, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Abstaining: Arens. Motion approved.

Ordinance No. 5861  
(Northeast Nebraska Regional Land Bank)

Councilmember Hildebrand introduced, seconded by Councilmember Snorton, Ordinance No. 5861 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORFOLK, NEBRASKA, TO ENACT CHAPTER 12.1, ARTICLE I, OF THE OFFICIAL CITY CODE TO CREATE AND PROVIDE FOR A NORTHEAST NEBRASKA REGIONAL LAND BANK AS AUTHORIZED BY THE NEBRASKA MUNICIPAL LAND BANK ACT WHICH AUTHORIZES TWO OR MORE MUNICIPALITIES TO CREATE A MUNICIPAL LAND BANK TO FACILITATE THE RETURN OF VACANT, ABANDONED AND TAX DELINQUENT PROPERTIES TO PRODUCTIVE USE; 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.

City Attorney Danielle Myers-Noelle explained that this ordinance creates the Northeast Nebraska Regional Land Bank within Chapter 12.1 of Norfolk City Code. While the ordinance is more optional than required under the Land Bank Act, city staff opted to incorporate some key

Land Bank language into our city code. This is not a governing document for the Land Bank, it simply creates a space for the new organization within our city code.

Ordinance No. 5861 was then read into the record by title by the City Clerk.

Roll call: Ayes: Granquist, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Abstaining: Arens. Ordinance No. 5861 passed on first reading.

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

Roll call: Ayes: Granquist, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Abstaining: Arens. 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 McCarthy moved, seconded by Councilmember Hildebrand, 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. 5861 be passed and adopted?"

Roll call: Ayes: Granquist, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Abstaining: Arens. 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. 5861 as required by law.

Resolution No. 2023-67  
(Land Bank Board appointments)

Councilmember Snorton moved, seconded by Councilmember Clausen, for adoption of Resolution No. 2023-67 approving to appoint the following individuals to the Land Bank Board: Brian Lundy, John Kouba, and Benjamin Temple for 1-year terms; Rob Merrill, Randy Wilcox, and Rod Johnson for 2-year terms; Soshia Bohn, Mayra Mendoza, and Juan Sandoval for 3-year terms.

City Attorney Danielle Myers-Noelle explained that the resolution appoints specific individuals to the first Land Bank Board. These members all submitted applications to the City of Norfolk to be part of such board, and some were contacted by city staff as potential candidates to ensure compliance with the Land Bank Act requiring specific knowledge and experience areas. These individuals will serve staggered terms and are all residents of the City of Norfolk. The resolution also includes the names of the non-voting members of the Board that are required by the Act.

Roll call: Ayes: Granquist, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Abstaining: Arens. Resolution No. 2023-67 was adopted.

Ordinance No. 5862

(Sale of City property to Todd Borgmeyer, 1001 Northdale Drive)

Councilmember Arens introduced, seconded by Councilmember Granquist, Ordinance No. 5862 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO AUTHORIZE THE SALE OF CITY PROPERTY; TO PROVIDE THE TERMS OF SALE AND AUTHORIZE THE MAYOR TO EXECUTE AND DELIVER A QUITCLAIM DEED TO THE PROPERTY; TO PROVIDE FOR A REMONSTRANCE TO SAID SALE AS PROVIDED BY LAW; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading.

Operations Manager Lyle Lutt said an auction was held on December 7 and the property sold for \$39,000. Proceeds from the sale will go to the Land Bank.

Ordinance No. 5862 was then read into the record by title by the City Clerk.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Ordinance No. 5862 passed on first reading.

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

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. 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 Arens, 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. 5862 be passed and adopted?"

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. 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. 5862 as required by law.

Sale of City property to Todd Borgmeyer, 1001 Northdale Drive

Councilmember Granquist moved, seconded by Councilmember Snorton, for approval of a purchase agreement with Todd Borgmeyer, authorizing the sale of property addressed as 1001 Northdale Drive for \$39,000.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Motion approved.

Ordinance No. 5863

(Water District No. 129 creation)

(north along U.S. Highway 81 approximately from Sheridan Drive north to Eisenhower Avenue)

Councilmember Granquist introduced, seconded by Councilmember Arens, Ordinance No. 5863 entitled: AN ORDINANCE CREATING WATER EXTENSION DISTRICT NO. 129 IN THE CITY OF NORFOLK, NEBRASKA; ESTABLISHING THE OUTER BOUNDARIES OF THE DISTRICT; DESIGNATING THE SIZE, LOCATION AND TERMINAL POINTS; REFERRING TO THE PLANS, SPECIFICATIONS, AND ENGINEER'S ESTIMATE IN CONNECTION THEREWITH; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE, and moved that the ordinance be passed on first reading.

Councilmember Clausen noted a conflict and abstained from discussion and voting on Ordinance No. 5863 and engineering contract for the design phase for the associated Water Extension District.

Public Works Director Steven Rames provided information to elected officials. This ordinance provides for construction of an 8-inch DIP water main from 13th Street and Eisenhower Avenue south approximately 2900' to 13th Street and Sheridan Drive. This extension district was requested by two of the majority property owners in the district boundary. A meeting with property owners was held on November 14, 2023. Creation of a water extension district and estimated assessment costs were shared with property owners in attendance.

The proposed district would include twelve parcels and six landowners. All Parcel owners have been contacted and all understand the need and are supportive of the water extension district. Hillcrest Cemetery is not part of the assessment district as it is difficult to show any benefit to the property and they have no mechanism to pay for an assessment. The city will cover the frontage of Hillcrest as the improved water quality justifies the city covering this cost.

Two subcommittee meetings were held to review the need and property owner support for the project. At the December 11, 2023, meeting, the subcommittee approved sending the extension district to full council.

Jim McKenzie, 1412 Longhorn Drive, asked what portion of the costs will be assessed and if there is a standard policy for covering the unassessed costs. Rames said about two-thirds of the total cost will be assessed and the city's portion will come from current revenues.

Ordinance No. 5863 was then read into the record by title by the City Clerk.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton and Hildebrand. Nays: None. Absent: None. Abstaining: Clausen. Ordinance No. 5863 passed on first reading.



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

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton and Hildebrand. Nays: None. Absent: None. Abstaining: Clausen. 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 Hildebrand 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. 5863 be passed and adopted?"

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton and Hildebrand. Nays: None. Absent: None. Abstaining: Clausen. 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. 5863 as required by law.

#### McLaury Engineering contract

(Water Extension District No. 129 design phase, north along Highway 81)

Councilmember Hildebrand moved, seconded by Councilmember Snorton, for approval of an engineering contract with McLaury Engineering for the design phase services of the water main for the Water Extension District No. 129 (North along Highway 81) project for an amount not to exceed a fee, including reimbursable expenses, of \$46,400.00.

Public Works Director Steven Rames provided information to elected officials. This contract is for the design of a water main along Highway 81 from Eisenhower Avenue to Alaska Avenue and includes survey and topographic data collection, water main design, final construction plans and specifications, and bidding assistance. The cost of engineering is included in the final assessments for Water Extension District No. 129.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton and Hildebrand. Nays: None. Absent: None. Abstaining: Clausen. Motion approved.

#### **Public Comment Period**

Scott Williams, 1111 Nebraska Avenue, thanked elected officials and city staff for the progress he has noticed throughout the city in recent years.

Jim McKenzie, 1412 Longhorn Drive, discussed concerns with an overuse of TIF and the fact that the city has no TIF policy. McKenzie also discussed concerns with the amount of city debt and that nothing has been done about his previous requests for more frequent opportunities for open public comment.

There being no further business, the Mayor declared the meeting adjourned at 7:08 p.m.

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Josh Moenning  
Mayor

ATTEST:

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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, December 18, 2023, 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.

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Brianna Duerst  
City Clerk

( S E A L )