

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 June, 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: Frank Arens, Justin Webb, Andrew McCarthy, Thad Murren, Justin Snorton, Shane Clausen and Kory Hildebrand. Nays: None. Absent: Corey Granquist.

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, Communications Manager Nick Stevenson, Street Superintendent Will Elwell, Street Shop Supervisor Matt Ernesti, Assistant City Engineer Anna Allen, Library Director Jessica Chamberlain, Parks and Recreation Director Nathan Powell, Aquatics/Special Projects Manager Ryan Beed, Water and Sewer Director Chad Roberts, Wastewater Plant Superintendent Rob Huntley, 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 Arens moved, seconded by Councilmember McCarthy to approve the consent agenda as printed. Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist.

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

Consent Agenda Items Approved

Minutes of the May 15, 2023, City Council meeting

May sales tax report (March sales)

Mayor's appointment of Brian Porn to the Library Advisory Board to serve the remainder of Nicole Molden's term, ending July 2027

Riverpoint Agency, L.L.C., a Nebraska Limited Liability Company, agreement allowing the use of Skyview Park for a customer appreciation event on Saturday, July 22, 2023

The Norfolk Softball Association (NSA), a Nebraska Nonprofit Corporation, agreement allowing the use of City's softball fields to hold an adult softball tournament on Saturday, June 17, 2023

The Norfolk Softball Association (NSA), a Nebraska Nonprofit Corporation, agreement allowing the use of City's softball fields to hold an adult softball tournament on Saturday, July 15, 2023

Sacred Heart Church of Norfolk (also known as Norfolk Catholic High School), a Nebraska Nonprofit Corporation, agreement allowing the use of Memorial Field in Veterans Memorial Park to hold football games, scrimmages, and practices from July 1, 2023 to June 30, 2024

Sacred Heart Church of Norfolk (also known as Norfolk Catholic High School), a Nebraska Nonprofit Corporation, agreement allowing soccer practice and games on Memorial Field at Veterans Memorial Park and allowing soccer practice only on the multi-purpose fields and green space in North Pine Park

Sacred Heart Church of Norfolk (also known as Norfolk Catholic High School), a Nebraska Nonprofit Corporation, agreement allowing the use of the cross country course in Skyview Park for practices and meets for the cross country season from July 1, 2023 to June 30, 2024

Norfolk Motor Company, a Nebraska Corporation, dba Norfolk Auto Center, agreement allowing the use of a portion of Skyview Park to hold a company picnic on Saturday, July 29, 2023

Nucor Corporation, by and through its Vulcraft Nebraska Division, a Delaware Corporation; and REPAR, LLC, a Nebraska Limited Liability Corporation, agreement allowing the use of Ta-Ha-Zouka Park for a company picnic, which may include but not limited to hosting approximately 750 teammates and their families, serving food, and having games, activities, and inflatables in the park on Saturday, June 17, 2023

School District No. 2 of Madison County, Nebraska (also known as Norfolk Public Schools), agreement a Political Subdivision of the State of Nebraska, allowing the use of Memorial Field at Veterans Memorial Park for marching band practice, performances, band camps, and competition; baseball fields at Veterans Memorial Park and Ta-Ha-Zouka Park for baseball practice, games, and camps; Skyview Park for cross country practice, camps, and meets;

Memorial Field in Veterans Memorial Park for football and soccer games, camps, scrimmages, and practices; Ta-Ha-Zouka Park for softball practice, games, camps, and an annual invitational tournament; and the tennis courts located at 4th Street and Elm Avenue and at Central Park for boys and girls tennis camps, practice, and competitions for the term beginning July 1, 2023 through June 30, 2024

Settlement Agreement and Release with Behavior Health Specialists, Inc., to execute the agreement between itself and the former Sanitary and Improvement District No. 3 of Madison County, Nebraska, which has been annexed by the City

Resolution No. 2023-24 to place a stop sign on the southeast corner of the East Benjamin Avenue and Walters Drive intersection

Nucor Corporation sanitary sewer project easement agreement for the Northeast Industrial Utility Extension project for \$22,375.00

River Valley Properties, Inc. easement agreements for the Michigan Avenue and 8th Street Reconstruction project for property located along 701 West Michigan Avenue

Mayor to execute a Certificate of Substantial Completion to Perry Reid Construction, LLC for the Norfolk Transfer Station Site Improvements project

Updates to the Norfolk Public Library's policies including the addition of a policy to govern the use of the MakerSpace

Resolution No. 2023-25 approving the final plat of Sudbeck's Second Subdivision

Ratify the purchase of a replacement heater at AquaVenture Waterpark in the amount of \$102,107.99, from Lincoln Aquatics

Authorize the payment of \$205,000 to MacQueen Equipment of Lincoln, Nebraska for a replacement Regenerative Air Street Sweeper.

Bills in the amount of \$8,780,532.25

Public Hearings and Related Items

Public Hearing

(The Pier Seafood, LLC, Class IK liquor license application)
(and manager application of Jonathan Montalvo)

A public hearing was held to consider a Class IK (beer, wine, distilled spirits, on sale only) liquor license application for The Pier Seafood, LLC, dba The Pier Seafood, 312 West Norfolk Avenue, and the manager application of Jonathan Montalvo. City Clerk Brianna Duerst provided information to the Mayor and City Council. The Pier Seafood, LLC, dba The Pier Seafood, 312 West Norfolk Avenue has applied for a Class IK Liquor License. The business has

been operating at this location for the last couple of years and they are now looking to add on site alcohol sales. Following the public hearing, Council will need to make a recommendation, by resolution, to the Nebraska Liquor Control Commission, who ultimately decides on issuance of the license.

No one else appeared either in favor of or in opposition to the liquor license application and the Mayor declared the hearing closed.

Resolution No. 2023-26

(The Pier Seafood, LLC, Class IK liquor license application)
(and manager application of Jonathan Montalvo)

Councilmember Arens moved, seconded by Councilmember McCarthy, for adoption of Resolution No. 2023-26 approving the Class IK (beer, wine, distilled spirits, on sale only) liquor license application for The Pier Seafood, LLC, dba The Pier Seafood, 312 West Norfolk Avenue, and the manager application of Jonathan Montalvo.

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. Resolution No. 2023-26 was adopted.

Regular Agenda

Purchase Articulating Frontend Loader form Bobcat of Omaha

Councilmember Hildebrand moved, seconded by Councilmember Murren, for approval to purchase an Articulating Frontend Loader for \$138,802.07 from Bobcat of Omaha through State of Nebraska Contract Award #15792, for use by the Street Division.

Streets Manager Will Elwell provided information to elected officials. This is a budgeted expense for the current fiscal year and will be replacing an existing Frontend Loader. Two other bids were received, both of which were over budget.

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

Ordinance No. 5834

(parking restrictions, amend City Code Section 24-164)

Councilmember Arens introduced, seconded by Councilmember Snorton, Ordinance No. 5834 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-164 OF THE OFFICIAL CITY CODE TO RESTRICT PARKING ON THE WEST AND SOUTH SIDES OF FERGUSON DRIVE FROM BLUFF AVENUE NORTH AND WEST AROUND THE CURVE 360 FEET TO WHERE FERGUSON DRIVE MEETS AND TRANSITIONS INTO PASEWALK 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 second reading.

City Clerk Brianna Duerst provided information to elected officials. At the May 15, 2023 City Council meeting, a motion was made to suspend the rules and pass Ordinance No. 5834, as amended, on second and third readings. Following the meeting, in discussion with the City Attorney, who was not present at the May 15, 2023 meeting, it was determined that per City Code Section 2-22, an amended ordinance shall be referred to the city attorney for approval as to form as amended before coming back to the Council for approval. The ordinance is now in final form and can be approved on second and third readings.

Ordinance No. 5834 was then read into the record by title by the City Clerk.

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. Ordinance No. 5834 passed on second reading.

Thereafter Councilmember Arens 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. 5834 be passed and adopted?"

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. 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. 5834 as required by law.

Norfolk Public Schools and Northeast Community College agreement
(team lockers and annual maintenance fee)

Councilmember Snorton moved, seconded by Councilmember Murren, for approval of an agreement with Norfolk Public Schools and Northeast Community College for team lockers and an annual maintenance fee.

Parks and Recreation Director Nathan Powell provided information to elected officials. There has been discussion for over a year to help bring much needed improvements for fast pitch softball in Norfolk. Included in the agreement is up to \$400,000 from NPS, NECC and the City, each contributing 1/3 towards new team lockers at the Ta Ha Softball Complex. In addition, the schools will contribute 50% of the operating costs towards their portion of their usage. This amounts to \$50,005 for NPS and \$47,994 for NECC, annually. In addition to the team lockers, the school's portion will provide ADA sidewalks throughout, and repurpose the old restrooms into one family restroom and one umpire changing room.

In discussions with representatives from Mahlon (Jack) B. Kohler, they are supportive of using their contribution towards youth sports to help fund the city's portion of the project in addition to other improvements at the softball complex. \$698,000 of this contribution will be utilized for improvements including the team lockers, ADA sidewalk, repurposing the old restrooms, press box improvements, landscaping and irrigation, backstop replacement and fencing for a dedicated

fastpitch field on field #2. At the completion of the project, the newly upgraded facility will be renamed as the Kohler Softball Complex.

The total expected cost of the project is \$1,624,860 with 10% contingency built in. The total amount of the school's contribution and the Kohler donation is \$1,498,000. The remaining dollars will come from the Ta Ha restroom project in the amount of \$135,000, bringing total available funds for the project in the amount of \$1,633,000.

Jim McKenzie, 1412 Longhorn Drive, questioned the 50% usage fee from Norfolk Public Schools and Northeast Community College as well as the process of the other entities approving the agreement prior to coming before the City Council.

Powell said that the 50% usage fees are significantly more than what the city has collected in the past and noted the agreement had been previously discussed at a Parks and Recreation subcommittee meeting.

Councilmember Hildebrand declared a conflict of interest and abstained from the vote.

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

Elkhorn Paving Construction Change Order No. 1F
(Paving District No. 520, Walters' East Knolls 14th Addition)

Councilmember Murren moved, seconded by Councilmember Hildebrand, for approval of Change Order No. 1F with Elkhorn Paving Construction Co., Inc. for Paving District No. 520 (Walters' East Knolls 14th Addition) project resulting in a net increase of \$6,582.60.

Assistant City Engineer Anna Allen provided information to elected officials. Change Order No. 1F provides for extra crushed concrete foundation, flared end sections on culvert, and rebar mat to protect the storm drain resulting in a final contract amount of \$255,849.95. Costs will be assessed as part of the paving district.

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

Ordinance No. 5835
(amend City Code, golf car vehicles)

Councilmember Arens introduced, seconded by Councilmember Murren, Ordinance No. 5835 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-372 OF THE OFFICIAL CITY CODE TO INCLUDE ADDITIONAL STREETS UPON WHICH THE OPERATION OF GOLF CAR VEHICLES IS ALLOWED; TO AMEND SECTION 24-373 TO REMOVE THE REQUIREMENT THAT A GOLF CAR VEHICLE BE EQUIPPED WITH A ROLL BAR; TO AMEND SECTION 24-377 TO INCREASE THE MINIMUM DAMAGE AMOUNT THAT REQUIRES GIVING NOTICE AS PROVIDED BY

NEBRASKA REVISED STATUTE §60-699; 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.

Police Chief Don Miller provided information to elected officials. Miller said the original ordinance to allow golf cars on certain city streets was written based on research and information received from other jurisdictions. After issuing the ordinance, we quickly recognized three items that should be edited:

1. While the intent is to keep the golf car vehicles in neighborhoods, the 25-mph restriction eliminated a significant residential neighborhood with one-way streets that are 30 mph. Raising the overall limit to 30 is problematic since it would bring in additional streets that should not have golf car vehicles. To resolve this, we are proposing adding only the one-way streets of 3rd, 4th, 5th, and 6th Streets from Omaha Avenue to Madison Avenue.

2. While the idea of requiring roll bars on golf car vehicles seemed good, we determined the requirement would eliminate a significant number of brands and styles of golf car vehicles and would be too restrictive.

3. The state statute requirement for motor vehicle accident reporting has been raised to \$1,500 so we are proposing city ordinance match state statute.

Ordinance No. 5835 was then read into the record by title by the City Clerk.

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. Ordinance No. 5835 passed on first reading.

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

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. 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 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. 5835 be passed and adopted?"

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. 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. 5835 as required by law.

Ordinance No. 5836

(amend City Code, surcharge for discharge industrial wastes or other high strength wastewater)

Councilmember Snorton introduced, seconded by Councilmember Hildebrand, Ordinance No. 5836 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO AMEND SECTION 26-97 OF THE OFFICIAL CITY CODE TO ADJUST VALUES THAT WILL APPLY IN THE FORMULA USED WHEN DETERMINING THE SURCHARGE FOR EACH PROPERTY DISCHARGING INDUSTRIAL WASTES OR OTHER HIGH STRENGTH WASTEWATER; 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.

Wastewater Supervisor Rob Huntly provided information to elected officials. When the fee schedule was updated in October 2022, changes were made to the values that apply in a formula contained in Section 26-97 of the Code which is used to determine the surcharge for each property discharging industrial wastes or other high strength wastewater. Since the values contained in Section 26-97 do not currently reflect the changes that were made to the fee schedule, this Ordinance amends Section 26-97 for consistency in the Code.

Ordinance No. 5836 was then read into the record by title by the City Clerk.

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. Ordinance No. 5836 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: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. 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. 5836 be passed and adopted?"

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: Granquist. 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. 5836 as required by law.

Resolution No. 2023-27

(Norfolk Rentals, LLC, Preliminary Planned Development)
(northwest corner of E. Norfolk Avenue and N. Victory Road)

Councilmember Hildebrand moved, seconded by Councilmember Clausen, for adoption of Resolution No. 2023-27 approving the Preliminary Planned Development on property generally located at the northwest corner of East Norfolk Avenue and N. Victory Road at the request of Norfolk Rentals, LLC.

City Planner Val Grimes provided information to elected officials. This Preliminary Planned Development (PD) is for 3, 8-plex apartment buildings. They are 1-bedroom apartments to assist with adding new affordable housing stock to the community. The PD is requesting the allowance of multiple buildings on 1 lot, a 5' setback relief for the SE corner of one of the structures, and 625 SF dwelling unit instead of the minimum 650 SF per code.

The comprehensive plan future land use map has this NW corner of Norfolk Ave & Victory Rd/ Hwy 35 as commercial. There is still a buffering/screening requirement for the central area of the proposed plan to screen the traffic circulation portion on the west side from the existing single family residential. The screening may be either by landscaping or fence per code.

If this Preliminary PD passes, then the zoning change request to R-3 (public hearing) will come at the same time as the Final PD (public hearing) to the city council. Both the zoning change and the Final PD will go before the planning commission prior to the city council, as required by state statute. The Planning Commission voted unanimously to recommended approval of the preliminary planned development.

Public Works Director Steven Rames discussed the need for stormwater retention on the southwest corner of the site. Rames also discussed wastewater and sewer capacity concerns in the area and said that for this type of residential development, there is ample capacity in the area.

Britney Compton, 929 E Norfolk Ave, expressed concern with the sewer capacity in the area, noting residents in the area have all experienced sewer backups. Compton also expressed safety concerns with this type of development.

Rames discussed past flooding events that affected the area in 2010 related to stormwater infiltration from Woodland Park and in 2019 in which we had a storm sewer backup as a function of a large ice plug that developed in a storm sewer system. Both causes of flooding in this area have been identified and solid solutions have been put into place. Developments like the one proposed are not going to plug the system, it will be able to handle it. If there was another significant rain event and there is stormwater that finds its way into any of our sanitary sewers, it could result in a backup, but that has nothing to do with nearby residential developments.

Dan Wilson, 1300 E Norfolk Ave, discussed ongoing issues with sewer backups in the area. Wilson also asked about a previously discussed lift station south of Omaha Avenue that has not been constructed. Rames explained that sewers are designed to take a certain amount of capacity. That is a very large lift station and there is currently insufficient capacity to operate the system.

Chad Carter, Norfolk Rentals, answered questions related to estimated rent, exterior and interior layouts, the vetting process for tenants, and screening.

Councilmembers expressed concerns with the aesthetic of the buildings, layout, infrastructure in the area, the effect on future development, and the fact that Ward 1 Councilmember Granquist, who represents constituents in this area, was not present at the meeting.

Councilmember Arens moved, seconded by Councilmember Webb to table Resolution No. 2023-27.

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton and Clausen. Nays: Hildebrand. Absent: Granquist. Resolution No. 2023-27 was tabled.

There being no further business, the Mayor declared the meeting adjourned at 6:57 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, June 5, 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.

Brianna Duerst
City Clerk

(S E A L)