

CITY OF NORFOLK, NEBRASKA

The Mayor and City Council of the City of Norfolk met in regular session in the Council Chambers, 309 Madison Avenue, Norfolk, Nebraska on the 21st day of November, 2005, beginning at 7:30 p.m.

Following a moment of silence and the Pledge of Allegiance to the United States of America, Mayor Gordon Adams called the meeting to order. Roll call found the following Councilpersons present: Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss, and Saunders. Absent: Leshovsky.

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Fire Chief Shane Weidner, Prevention Manager Scott Cordes, Health Inspector Steve Nordhues, Health Official John Kouba, Police Chief Bill Mizner, Police Captain Steve Hecker, Fire Marshal Terry Zwiebel, Electrical Inspector William Nelson, and Building Inspector Duane Gall.

The Mayor presided and the City Clerk recorded the proceedings.

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.

Councilperson Kaspar-Beckman moved, seconded by Councilperson Fauss to amend the consent agenda with the addition of an item to accept the resignation of Ward 1 Councilperson Howard Leshovsky effective December 1, 2005 and to approve the consent agenda as amended. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried.

Councilperson Brenneman moved, seconded by Councilperson Wilson to amend the regular agenda with the addition of an executive session to discuss law enforcement issues in light of Saturday's shooting in Norfolk since timing wouldn't allow for the item to appear on the agenda when it was prepared and to adopt the regular agenda as amended. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried.

CONSENT AGENDA

The City Council approved the minutes of the November 7, 2005 City Council meeting as printed.

The City Council adopted Resolution No. 2005-78 authorizing placement of two **handicap parking** stalls in front of 403 West Norfolk Avenue, on the south side of Norfolk Avenue from 47.5 feet west of the west curb line of 4th Street to 70 feet west of the west curb line of 4th Street. Members of the Deborah Rebekah Lodge, 403 West Norfolk Avenue, requested the handicapped parking stalls.

The City Council adopted Resolution No. 2005-79 approving the final plat of **Blackberry Heights** First Addition and authorizing the Mayor to sign the accompanying subdivision agreement. This is a thirteen-lot subdivision requested by J.G. Desai and located north of Westwood Addition.

The City Council approved and authorized the Mayor to sign and forward a letter to the Nebraska Department of Economic Development requesting a six-month extension on the **Meadow Ridge**

2002 grant to complete the project.

The City Council approved and authorized the Mayor to sign an agreement authorizing participation in the **Green Fiber Paper Recycling** Program to recycle paper and cardboard products.

The City Council approved the Revised Appeal Hearing Procedures related to the appeal of the City's denial of the 2005 mobile home park permit for Maple Park Court located on North 1st Street.

The City Council approved all bills on file in the amount of \$808,373.34.

REGULAR AGENDA

A public hearing was held to consider a **zoning** change from A (Agricultural District) and I-1 (Light Industrial District) to R-R (Rural Residential District) at 3402 North 1st Street at the request of Roger and Sharon Schulz. Prevention Manager Scott Cordes provided information to the Mayor and City Council. The Schultz's are selling their business (Puppy Love) and platting parcels after the rezoning is complete. The home is located on this parcel and an earlier zoning change request to I-1 was to accommodate the kennel business.

On October 4, 2005, the Norfolk Planning Commission held a public hearing regarding the Schulz's request. 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 zoning change and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4856 changing the zoning from A (Agricultural District) and I-1 (Light Industrial District) to R-R (Rural Residential District) at the request of Roger and Sharon Schulz, 3402 North 1st Street.

Councilperson Van Dyke introduced Ordinance No. 4856 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. Councilperson Lange seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried. Ordinance No. 4856 passed on first reading.

Councilperson Kaspar-Beckman moved that the statutory rule requiring reading on three different days be suspended. Councilperson Saunders seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. 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 Councilperson Kaspar-Beckman moved that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance which motion was seconded by Councilperson Saunders. The Mayor then stated the question "Shall Ordinance No. 4856 be passed and adopted?" Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson,

Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. 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. 4856 as required by law.

The Mayor requested consideration of Ordinance No. 4835 amending Section 24-110 to increase the speed to 30 miles per hour on **Taylor** Avenue from Pasewalk Avenue to 25th Street. Ordinance No. 4835 passed on first reading at the October 17, 2005 City Council meeting and on second reading at the November 7, 2005 City Council meeting.

Councilperson Lange introduced Ordinance No. 4835 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO AMEND SECTION 24-110 OF THE OFFICIAL CITY CODE TO PROVIDE FOR A SPEED LIMIT OF 30 MILES PER HOUR ON TAYLOR AVENUE FROM PASEWALK AVENUE TO 25TH STREET; 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 third reading. Councilperson Wilson seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried. Ordinance No. 4835 passed on third reading.

The Mayor requested consideration of Ordinance No. 4854 amending Section 24-111 in order to establish a **speed reduction** zone in the 300 block of South 6th Street from Park Avenue to Phillip Avenue.

Councilperson Fauss introduced Ordinance No. 4854 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO AMEND SECTION 24-111 OF THE OFFICIAL CITY CODE TO ADD A SCHOOL ZONE; 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. Councilperson Kaspar-Beckman seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried. Ordinance No. 4854 passed on first reading.

Councilperson Van Dyke moved that the statutory rule requiring reading on three different days be suspended. Councilperson Wilson seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. 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 Councilperson Van Dyke moved that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance which motion was seconded by Councilperson Wilson. The Mayor then stated the question "Shall Ordinance No. 4854 be passed and adopted?" Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. 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. 4854 as required by law.

The Mayor requested consideration of Ordinance No. 4855 vacating the plat of **Country Place** Addition to Madison County, Nebraska, being part of the NW ¼ of Section 11, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska.

Councilperson Kaspar-Beckman introduced Ordinance No. 4855 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO VACATE THE PLAT OF COUNTRY PLACE ADDITION TO MADISON COUNTY, NEBRASKA, BEING PART OF THE NW ¼ OF THE NW ¼ OF SECTION 11, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Councilperson Fauss seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried. Ordinance No. 4855 passed on first reading.

Councilperson Lange moved that the statutory rule requiring reading on three different days be suspended. Councilperson Van Dyke seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. 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 Councilperson Lange moved that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance which motion was seconded by Councilperson Van Dyke. The Mayor then stated the question "Shall Ordinance No. 4855 be passed and adopted?" Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. 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. 4855 as required by law.

A public hearing was held to consider the denial of the 2005 Mobile Home Park Permit for **Maple Park Court**, 309 North 1st Street, at the request of Lori Miller. Court Reporter Valorie Olson was present to document testimony during the hearing.

On October 13, 2005, Health Inspector John Kouba, of the City's Prevention Bureau, sent a letter to Mike & Lori Miller denying the 2005 Mobile Home Park Permit for Maple Park Court, 309 North 1st Street, due to multiple life safety issues. It was stated in the letter that operation of the mobile home park "shall cease within 90 days." City Code Section 15-39 provides appeal procedures for the denial and on October 27, 2005, Kouba received an appeal from Lori Miller. Mayor Adams served as hearing officer with Attorney Scott Gray assisting. The hearing was conducted informally but was reported by the certified court reporter. All witnesses were sworn by the court reporter. The City Council was not bound by the strict rules of evidence in the conduct of the hearing and could admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons.

As many exhibits were marked in advance of the hearing as possible. City staff presented evidence and witnesses and the permit applicant's attorney, Mark Sipple, Columbus, presented evidence and

witnesses. Rebuttal evidence was then had by both City staff and the permit applicant.

City staff witnesses were: Health Official John Kouba, Prevention Manager Scott Cordes, Fire Chief Shane Weidner and Fire Marshal Terry Zwiebel.

Lori Miller was the only witness for the permit applicant.

After four hours of testimony, the Mayor declared the hearing closed.

Councilperson Saunders moved, seconded by Councilperson Kaspar-Beckman to affirm the denial of the 2005 Mobile Home Park Permit for Maple Park Court, 309 North 1st Street, Norfolk, Nebraska. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried.

No comments were received regarding the monthly commercial and industrial building permit report for October 2005; the Police Division report for October 2005; or the Works-In-Progress report for the period November 2 through 15, 2005. All of the reports were included in the agenda packets.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to adjourn from regular session and convene into executive session at 11:48 p.m. to discuss law enforcement issues. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to adjourn from executive session, reconvene into regular session and adjourn the meeting at 12:20 a.m. Roll call: Ayes: Councilpersons Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Leshovsky. Motion carried.

Gordon D. Adams
Mayor

ATTEST:

Elizabeth A. Deck
City Clerk

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I, the undersigned Clerk, hereby certify that the foregoing is the full, true and correct original document of proceedings of Monday, November 21, 2005, had and done by the Mayor and 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.

Elizabeth A. Deck
City Clerk

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