

## **CITY OF NORFOLK, NEBRASKA**

The Mayor and City Council of the City of Norfolk met in regular session in the Council Chambers, 309 West Madison Avenue, Norfolk, Nebraska on the 4th day of December, 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: Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss, and Saunders. Absent: None.

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Finance Officer Randy Gates, Prevention Manager Scott Cordes, Transportation, Building & Grounds Director Jim Koch, Fire Chief Shane Weidner, Property/Operations Manager Gary Miller and Police Chief Bill Mizner.

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.

The Honorable Judge Patrick G. Rogers administered the oaths of office to newly elected officials: Councilperson Dale Coy, Ward 1; Councilperson Dave Fauss, Ward 2; Councilperson Ivan Van Dyke, Ward 3; and Councilperson Karl Reeder, Ward 4.

The Mayor presented plaques of appreciation to Sue Kaspar-Beckman and Ron Stauffer service on the Council.

Following the swearing in ceremony, the newly elected officials were seated.

The Mayor requested roll call be taken. Roll call found the following Councilpersons present: Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders.

Councilperson Lange moved, seconded by Councilperson Van Dyke to approve the consent agenda as printed. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

Councilperson Brenneman moved, seconded by Councilperson Wilson to adopt the regular agenda as printed. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

The Mayor requested consideration of selection by the City Council of the **President of the Council** to serve the upcoming two year term.

Councilperson Fauss nominated Councilperson Brenneman for the position of President of the Council, seconded by Councilperson Wilson.

Councilperson Fauss moved to cease nominations for the position of President of the Council and for unanimous support of Jim Brenneman as President of the Council for a two year term, seconded by Councilperson Lange. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Fauss and Saunders. Nays: None. Abstaining: Brenneman. Absent: None. Motion carried.

#### CONSENT AGENDA

The City Council approved the minutes of the November 20, 2006, City Council meeting as printed.

The City Council adopted Resolution No. 2006-43 stating the City desires to **annex** land located generally north of **Monroe Avenue** and west of the present city limits line (Affiliated Foods), approving the plan for extending City services to said land and establishing December 18, 2006 as the date for a public hearing to consider said annexation.

The City Council adopted Resolution No. 2006-44 stating the City desires to **annex** land located generally south of **Eisenhower Avenue and west of Victory Road** (Arnold Engineering), approving the plan for extending City services to said land and establishing December 18, 2006 as the date for a public hearing to consider said annexation.

The City Council approved and authorized the Mayor to sign an Engineering Agreement with Olsson Associates to provide engineering services for the **Meadow Ridge** Phase IV project for a not to exceed amount of \$58,850.

The City Council approved and authorized the Mayor to sign a letter agreement with Nebraska Central Railroad for reconstruction of the railroad crossing on Benjamin Avenue. Nebraska Central Railroad agrees to pay for 20% of this crossing if the City commits to closing the 3rd Street railroad crossing during the second quarter of 2007. Total cost of the project is estimated at \$80,000 with the City's portion being approximately \$64,000.

The City Council approved the purchase of a replacement **tanker truck** from Fouts Fire Equipment for \$162,000. Seven sealed bids were received at the November 28, 2006 bid letting. The other bidders were Danko Emergency, \$177,250; Fire Guard, \$196,719; Heiman Fire Equipment, \$197,899; Crimson #1, \$213,413; Crimson #2, \$207,719 and Crimson #3, \$221,517.

The City Council approved and authorized the Mayor to sign an agreement with Patti Podliska and Mid-America Working **Terrier Club** for use of Tahazouka Park from June 21, 2007 through June 24, 2007 for the annual dog show.

The City Council approved all bills on file in the amount of \$1,294,735.15.

## REGULAR AGENDA

A public hearing was held to consider the **appeal** of Robert G. Thomas, on behalf of **WJAG AM & KEXL FM**, regarding the Conditional Use Permit for NE-Colorado Cellular, Inc., dba **Viaero Wireless**. Prevention Manager Scott Cordes provided information to the Mayor and City Council. Thomas feels the conditional use does not consider the potential disruptive impact of the proposed tower on KEXL FM, Norfolk. Cordes explained the issue is the line of site. On November 28, 2006, representatives of NE Colorado Cellular and WJAG contacted the City Administrator to say the two parties are currently discussing WJAG's concerns/interests. Therefore, staff recommends the public hearing be continued until the engineering report is complete and that the related resolution be tabled at this time. Cordes stated if the line of site issue is successfully resolved, Thomas will withdraw the appeal.

No one appeared either in favor of or in opposition to the Conditional Use Permit appeal.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to continue the public hearing on the appeal of Robert G. Thomas, on behalf of WJAG AM and KEXL FM. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

The Mayor requested consideration of Ordinance No. 4915 amending Section 14-318 of the City Code to alter the **curfew** hours for persons between the ages of sixteen (16) and seventeen (17) to coincide with the hours during which the holder of a provisional operator's permit can lawfully operate a motor vehicle and to remove the curfew for those seventeen (17) years of age.

Councilperson Wilson introduced Ordinance No. 4915 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 14-318 OF THE OFFICIAL CITY CODE TO ALTER THE CURFEW HOURS FOR PERSONS BETWEEN THE AGES OF SIXTEEN (16) AND SEVENTEEN (17) TO COINCIDE WITH THE HOURS DURING WHICH THE HOLDER OF A PROVISIONAL OPERATOR'S PERMIT CAN LAWFULLY OPERATE A MOTOR VEHICLE AND TO REMOVE THE CURFEW FOR THOSE SEVENTEEN (17) YEARS OF AGE; 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 Fauss seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Police Chief Bill Mizner stated the proposed ordinance will alter curfew standards in the City of Norfolk for persons between the ages of sixteen (16) and seventeen (17) to coincide with the hours during which the holder of a provisional operator's permit can lawfully operate a motor vehicle and to remove the curfew for those seventeen (17) years of age. The proposed revision will not change curfew limits for persons under the age of sixteen (16) which will remain at 10:30 p.m. Sunday through Thursday and 12:00 midnight on Friday and Saturday. State law allows an individual with a provisional operator's permit (POP) to operate a motor vehicle between the hours of 6:00 a.m. and 12:00 midnight any day of the week. The proposed revision will adjust the curfew limit to 12:00 midnight for persons between sixteen (16) and seventeen (17) years of age, allowing it to coincide with the POP.

The proposed revision eliminates curfew restrictions for persons seventeen (17) years of age. A recent online review of curfew ordinances for similar-sized cities in Nebraska indicated that in several of the communities curfew applies only to persons under sixteen (16) years of age.

Roll call on Ordinance No. 4915: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4915 passed on first reading only.

The Mayor requested Resolution No. 2006-42 regarding the Conditional Use Permit for NE-Colorado Cellular, Inc., dba Viaero Wireless, be tabled.

Councilperson Brenneman moved to table consideration of Resolution No. 2006-42 regarding the Conditional Use Permit for NE-Colorado Cellular, Inc., dba Viaero Wireless, seconded by Councilperson Wilson. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Resolution No. 2006-42 was tabled.

The Mayor requested consideration of approval of a loan modification agreement and related allonge with Meadow Ridge Partners, LLC, forgiving accrued interest on the \$935,000 HOME loan to **Meadow Ridge Partners**, LLC, and reducing the interest rate from 7.88% to 0%.

Councilperson Van Dyke moved, seconded by Councilperson Lange to approve and authorize the Mayor to sign a loan modification agreement and related allonge with Meadow Ridge Partners, LLC, forgiving accrued interest on the \$935,000 HOME loan to Meadow Ridge Partners, LLC, and reducing the interest rate from 7.88% to 0%.

Councilperson Van Dyke said elected officials have been considering the Meadow Ridge loan documents for a long time and have reviewed a lot of information related to the project. Van Dyke said no other entities are collecting interest on HOME loans across the state. Van Dyke feels the City has only one choice and that is to approve the Meadow Ridge documents.

Councilperson Brenneman has “struggled” with this issue and attended the citizen’s ad hoc committee meetings. Brenneman stated the City is almost mandated by the State to repay the \$935,000 if the documents are not approved by the City.

Councilperson Coy has been reviewing this issue and understands that even if the City received the interest payment, the money would need to be used for other housing assistance and would not go “into the city funds”.

Councilperson Reeder feels elected officials need more information before making a decision. Reeder stated Norfolk citizens “don’t want it to happen.”

Councilperson Lange feels economic development is “a big issue” and major employers need adequate housing. Lange stated “this is not City money”, Norfolk was just the pass through agency for the funds because the Community Housing Development Organization (CHDO) wasn’t set up at that time. Lange stated this is a “win/win” situation unless “the City wants to get greedy and tries to collect the interest.” Lange supports approval of the documents.

Councilperson Saunders stated the issue is complicated and difficult to understand, but Saunders supports approval of the Meadow Ridge documents.

Councilperson Wilson thanked citizens who served on the ad hoc committee. Wilson stated that if the Department of Economic Development requests the \$935,000 repayment of the loan, the money will need to come out of taxpayers living in Norfolk.

Councilperson Fauss “is ashamed of the way the documents were put together 15 years ago.” Fauss feels the ad hoc committee members weren’t informed. Fauss “never got the information requested”. Fauss will not support the issue unless another person manages the apartments. Fauss said the City “isn’t getting anything and the documents should be re-written.”

Councilperson Van Dyke feels that if any blame should be placed it should be “in New York and not here”. However, the City must now deal with the situation.

Councilperson Lange stated the City received 84 apartment units for low-to-moderate income persons.

Mayor Adams questioned whether anyone from the ad hoc citizens committee wished to speak to the issue.

Mike Renken is involved with NeighborWorks Nebraska. Renken stated the Meadow Ridge project is very complicated. Renken understands that if the Council forgives the interest many Norfolk citizens may be mad. However, if the City doesn’t approve the document, DED will most likely request the City repay \$935,000 and the City will probably not be receiving any future grants. Renken said Norfolk can’t afford to let this happen. Renken stated the City should be proud of the Meadow Ridge project. Renken stated the Meadow Ridge apartments are managed very well right now but that may not be the case in the future if the documents are not approved. Renken feels elected officials need “to make the difficult decision” and approve the documents. Renken stated the documents will correct previous mistakes and are the right thing to do for the City, the Meadow Ridge partnership and for the apartments.

Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Wilson, Brenneman, and Saunders. Nays: Reeder and Fauss. Absent: None. Motion carried.

The Mayor requested consideration of approval of a subordination agreement subordinating the City’s \$935,000 HOME loan to **Meadow Ridge Partners, LLC**, to a loan from JP Morgan Chase Bank.

Councilperson Lange moved, seconded by Councilperson Saunders to approve and authorize the Mayor to sign a subordination agreement subordinating the City’s \$935,000 HOME loan to Meadow Ridge Partners, LLC, to a loan from JP Morgan Chase Bank. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Wilson, Brenneman, and Saunders. Nays: Reeder and Fauss. Absent: None. Motion carried.

The Mayor requested consideration of authorizing the Mayor to sign and forward a letter to the Nebraska Department of Economic Development requesting an amendment to Grant Contract M94-SG-3101-13 to reduce the number of **HOME** assisted units from 42 to 19.

Councilperson Brenneman moved, seconded by Councilperson Lange to authorize the Mayor to sign and forward a letter to the Nebraska Department of Economic Development requesting an amendment to Grant Contract M94-SG-3101-13 to reduce the number of HOME assisted units from 42 to 19. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

The Mayor requested consideration of a Memorandum of Understanding (MOU) with **Meadow Ridge** Partners, LLC, requiring Meadow Ridge Partners comply with HOME Program requirements and limiting distributions to the Managing Members to \$30,000 annually.

Councilperson Lange moved, seconded by Councilperson Wilson to approve and authorize the Mayor to sign a Memorandum of Understanding (MOU) with Meadow Ridge Partners, LLC, requiring Meadow Ridge Partners to comply with HOME Program requirements and limiting distributions to the Managing Members to \$30,000 annually. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

The Mayor requested consideration of approval for staff to proceed with a land swap with the **Gesell** family concerning property on either side of the Elkhorn River east of South 1st Street.

Councilperson Van Dyke moved, seconded by Councilperson Brenneman to approve and authorize staff to proceed with a land swap with the Gesell family concerning property on either side of the Elkhorn River east of 1st Street.

Public Works Director Dennis Smith explained the Gesell family owns land on South 1st Street immediately south of the Elkhorn River. A portion of this property is also on the north side of the river. A portion of the City's property acquired for the wastewater treatment facilities is located on the south side of the river. The City property and the Gesell property are adjacent to each other. In December 2005, City staff offered to exchange the City's property on the south side of the river for the Gesell property on the north side of the river. The City's offer was for an even exchange. Because the City's property was larger, staff requested the Gesell family complete the engineering required for the land exchange. The Gesell family counter-offered with several interests related to eminent domain and future assessments. Staff responded that the City was only interested in the land exchange without other conditions. After further discussion, the parties agreed to exchange properties with each party acquiring its own title insurance. The cost of surveying the exchange of properties will be shared equally. If the proposal is approved, staff will prepare an agreement and sale ordinance and schedule a public hearing required by Nebraska statute.

Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

Sales and use tax collection for the month of September 2006 was reported as \$471,778.62.

No comments were received regarding the Works-In-Progress report for the period November 15 through 28, 2006. The report was included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Lange to adjourn the meeting at 8:15 p.m. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

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Gordon D. Adams  
Mayor

ATTEST:

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Elizabeth A. Deck  
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 4, 2006, 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.

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Elizabeth A. Deck  
City Clerk

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