

## 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 1st day of May, 2006, 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, Prevention Manager Scott Cordes, Fire Chief Shane Weidner, Finance Officer Randy Gates and Police Chief Bill Mizner.

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 delete Item G-12, consideration of approval of an agreement with Stanton County for dispatch service, from the agenda and approve the consent agenda as amended. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

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

### SPECIAL PRESENTATIONS

The Mayor proclaimed the first week of May 2006 as "Elks Youth Week" and May 1-7, 2006 as "Respect for Law Week".

### CONSENT AGENDA

The City Council approved the minutes of the April 17, 2006 City Council meeting.

The City Council approved the low bid from Technical Maintenance & Service, Inc., Lincoln, Nebraska, for one **programmable controller installation** at the Water Pollution Control Plant for a total of \$31,338.00. On April 10, 2006, three bids were received. The other two bids were as follows: Automatic Systems Company, Ames, Iowa - \$38,968, and Northwoods Electrical and Control Systems, Perham, Minnesota - \$41,944.

The City Council approved and authorized the Mayor to sign an Interlocal Agreement to form the Madison County Fire Protection Mutual Finance Organization (MFO). The creation of the MFO allows members to levy an agreed upon limit of four cents and qualifies the MFO for State funding under the Nebraska Municipal Finance Act.

The City Council approved and authorized the Mayor to sign an agreement with the Norfolk **Rural Fire Protection District** addressing the revenue shortfall to the Rural Fire Protection District giving a credit of \$7,500 to the district against sums due under the June 19, 2000 agreement.

The City Council approved a Special Designated Liquor License for **Kyriss Enterprises**, dba "O", to sell beer, wine and distilled spirits at 1106 Riverside Boulevard, Norfolk, Nebraska on Friday, July 7, 2006, for a beer garden and fireworks display.

The City Council approved a request from Fly-By-Night Fireworks to hold a **fireworks** display on Tuesday, May 9, 2006, from 8:00 p.m. to 10:00 p.m. at Bel-Air School.

The City Council approved and authorized the Mayor to sign a Water Extension Agreement with Billie J. Hathaway, 905 Durland Avenue, for installation of a 4-inch water main on **Durland's** Suburban Lots to Norfolk.

The City Council approved and authorized the Mayor to sign a Permanent Utility Easement Agreement with Virgil N. Raasch, Esther Raasch, Norman D. **Raasch** and Virginia L. Raasch for construction and maintenance of utilities for the Eisenhower Avenue improvements project for an amount of \$4,200.00.

The City Council approved a Special Designated Liquor License for the Downtown Norfolk Association to sell beer on June 9 and June 10, 2006, in a beer garden located on the parking lot at 307 West Norfolk Avenue in connection with the Northeast Nebraska **Ethnic Festival**.

The City Clerk was authorized to advertise for bids for the **Eisenhower Avenue Water Improvements**, Norfolk, Nebraska – 2006 project.

The City Council approved and authorized the Mayor to sign an agreement with the Village of Hoskins and Hoskins Rural Fire Protection District No. 3 authorizing the Police Division to provide **dispatch service**.

The City Council approved and authorized the Mayor to sign an Easement Agreement with **Apartments Plus**, L.L.C. (Bill & Jane Zechmann) to maintain the storm sewer lying along Lot 6, Braasch's Suburban Lots to the City of Norfolk, Madison County, Nebraska.

The City Council approved all bills on file in the amount of \$987,414.09.

## REGULAR AGENDA

A public hearing was held to consider terminating CDBG project #03-ED-015 (**Protient**) because the funds were not utilized and funding for the purchase of equipment is no longer required. Tom Higgenbotham, Executive Director of the Northeast Nebraska Economic Development District (NENEDD), provided information to the Mayor and City Council. Protient was bought out by another company who does not need the funds for the expansion project. This public hearing is a requirement of the Nebraska Department of Economic Development when grant funds are not going to be utilized.

No one appeared either in favor of or in opposition to terminating the CDBG project #03-Ed-015 (Protient) and the Mayor declared the hearing closed.

The Mayor requested consideration of forwarding a letter to the Nebraska Department of Economic Development terminating CDBG #03-Ed-015 (Protient).

Councilperson Van Dyke moved, seconded by Councilperson Brenneman to authorize the Mayor to sign and forward a letter to the Nebraska Department of Economic Development terminating the CDBG #03-Ed-015 (Protient) grant. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

A public hearing was held to consider amending the City of Norfolk's **Extraterritorial Jurisdiction Map**. Prevention Manager Scott Cordes provided information to the Mayor and City Council. This amendment is due to annexations in the East Knolls Addition east of Norfolk and the Carhart Addition west of Norfolk. As the

City annexes within its limits, the extraterritorial jurisdiction map needs to be updated to correspond with the city limits. Cordes explained the land taken in by the extraterritorial jurisdiction map automatically defaults to agricultural zoning. Permits & Codes will initiate zoning changes, if necessary, to reinstate any areas that are currently zoned something other than agricultural. Those areas will be considered on a case-by-case basis; however, Cordes doesn't think any of the property is zoned something besides agricultural.

On April 18, 2006, the Norfolk Planning Commission held a public hearing to amend the Extraterritorial Jurisdiction Map. The City Clerk read the Planning Commission's recommendation for approval into the record.

On April 18, 2006 the Planning Commission held a public hearing to consider amending the Extraterritorial Jurisdiction Map. The City Clerk read the Planning Commission's recommendation for approval into the record.

No one appeared either in favor of or in opposition to amending the City of Norfolk's Extraterritorial Jurisdiction Map and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4877 amending the City of Norfolk's Extraterritorial Jurisdiction Map.

Councilperson Stauffer introduced Ordinance No. 4877 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE EXTRATERRITORIAL ZONING JURISDICTION MAP OF THE CITY OF NORFOLK, NEBRASKA, AS AUTHORIZED BY N.R.S. SECTION 16-902 (REISSUE 1997), TO INCLUDE THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 24 NORTH, RANGE 1 EAST OF THE 6TH P.M. STANTON COUNTY, NEBRASKA, ALSO THE WEST ½ OF THE SOUTHWEST ¼ AND THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 2 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND THE NORTHWEST ¼, THE SOUTHWEST ¼ OF THE NORTHEAST ¼, THE EAST ½ OF THE SOUTHWEST ¼, THE WEST ½ OF THE SOUTHEAST ¼ AND THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ ALL IN SECTION 25, TOWNSHIP 24 NORTH, RANGE 2 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND THE NORTH ½ OF THE NORTHEAST ¼ AND THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 36, TOWNSHIP 24 NORTH, RANGE 2 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA AND THE WEST ½ OF THE NORTHWEST ¼ AND THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 31, TOWNSHIP 24 NORTH RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA; 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 Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4877 passed on first reading.

Councilperson Van Dyke moved that the statutory rule requiring reading on three different days be suspended. Councilperson Fauss seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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 Fauss. The Mayor then stated the question "Shall Ordinance No. 4877 be passed and adopted?" Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4877 as required by law.

A public hearing was held to consider a zoning change from R-1 (Single Family Residential District) to S-R (Suburban Residential District) at 1300 East Norfolk Avenue at the request of Dan and Judy Wilson.

Councilperson Erik Wilson declared a conflict of interest and abstained from discussion on the zoning change and on Ordinance No. 4878 related to the request.

Prevention Manager Scott Cordes provided information to the Mayor and City Council. The Wilson's operate Wilson's Shady Acre Nursery and Tree Service at 1300 East Norfolk Avenue under a Special Use Permit that expires in two years. Wilson approached City staff about expanding the business and discovered the existing zoning does not support a nursery. This was due to an amendment to the zoning code several years ago. The Wilson's seek the change in zoning and are also applying for renewal of a Conditional Use Permit to operate a nursery and tree service business on the property. Cordes explained this zoning change is a housekeeping issue and corrects a mistake in the zoning code.

On April 18, 2006, the Norfolk Planning Commission held a public hearing regarding the Wilson's request. The City Clerk read the Planning Commission's recommendation for approval into the record.

No one 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. 4878 for a zoning change from R-1 (Single Family Residential District) to S-R (Suburban Residential District) at **1300 East Norfolk** Avenue at the request of Dan and Judy Wilson.

Councilperson Brenneman introduced Ordinance No. 4878 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 Fauss seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Brenneman, Fauss and Saunders. Nays: None. Abstaining: Wilson. Absent: None. Motion carried. Ordinance No. 4878 passed on first reading.

Councilperson Kaspar-Beckman moved that the statutory rule requiring reading on three different days be suspended. Councilperson Kaspar-Beckman seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Brenneman, Fauss and Saunders. Nays: None. Abstaining: Wilson. Absent: None. 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 Fauss. The Mayor then stated the question "Shall Ordinance No. 4878 be passed and adopted?" Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Brenneman, Fauss and Saunders. Nays: None. Abstaining: Wilson. Absent: None. 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. 4878 as required by law.

The Mayor requested consideration of Ordinance No. 4871 vacating a portion of **31st Street** platted as part of Berry Hill 9th Addition, an Addition to the City of Norfolk, Madison County, Nebraska, lying wholly in the Northwest ¼ of the Southeast ¼ of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison

County, Nebraska. Ordinance No. 4871 passed on second reading at the April 17, 2006 City Council meeting.

Councilperson Kaspar-Beckman introduced Ordinance No. 4871 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO VACATE THAT PORTION OF 31ST STREET PLATTED AS PART OF BERRY HILL 9TH ADDITION, AN ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA, LYING WHOLLY IN THE NW1/4 OF THE SE1/4 OF SECTION 17, 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 second reading. Councilperson Lange seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brennenman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4871 passed on third reading. 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. 4871 as required by law.

The Mayor requested consideration of Ordinance No. 4872 **annexing** land located generally north of Eldorado Hills, Berry Hill and Westwood Additions. Ordinance No. 4872 was passed on first reading at the April 17, 2006 City Council meeting.

Councilperson Lange introduced Ordinance No. 4872 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO ANNEX TO SAID CITY A PART OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ AND THE SOUTHWEST ¼ OF THE NORTHEAST ¼ ALL IN SECTION 17, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH PRINCIPAL MERIDIAN, MADISON COUNTY, NEBRASKA, REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED IN PAMPHLET FORM and moved that the ordinance be passed on second reading. Councilperson Stauffer seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brennenman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4872 passed on second reading only.

The Mayor requested consideration of Ordinance No. 4876 for a zoning change from R-3 (Multiple Family Residential District) to C-3 (Service Commercial District) at **3300 Koenigstein** Avenue at the request of MBH Investments, Inc. Ordinance No. 4876 was passed on first reading at the April 17, 2006 City Council meeting.

Councilperson Brennenman introduced Ordinance No. 4876 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 second reading. Councilperson Wilson seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Councilperson Kaspar-Beckman moved, seconded by Councilperson Wilson to table consideration of Ordinance No. 4876 on second reading at the request of the developer. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brennenman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4876 was tabled.

The Mayor requested consideration of Ordinance No. 4879 authorizing the sale of abandoned Chicago & Northwestern Railroad right-of-way property at 1509 **Queen City** Boulevard to **Alewel** Family Partnership, Ltd.

Councilperson Fauss introduced Ordinance No. 4879 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. Councilperson Brenneman seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4879 passed on first reading.

Councilperson Kaspar-Beckman moved that the statutory rule requiring reading on three different days be suspended. Councilperson Fauss seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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 Fauss. The Mayor then stated the question "Shall Ordinance No. 4879 be passed and adopted?" Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4879 as required by law.

The Mayor requested consideration of Ordinance No. 4880 amending Section 24-164 of City Code to create a **parking prohibition** on the north side of Maple Avenue from 18th Street to 19th Street.

Councilperson Lange introduced Ordinance No. 4880 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-164 OF THE OFFICIAL CITY CODE TO CREATE A PARKING PROHIBITION ON THE NORTH SIDE OF MAPLE AVENUE FROM 18TH STREET TO 19TH 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 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 Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4880 passed on first reading.

Councilperson Brenneman moved that the statutory rule requiring reading on three different days be suspended. Councilperson Fauss seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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 Brenneman 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 Fauss. The Mayor then stated the question "Shall Ordinance No. 4880 be passed and adopted?" Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4880 as required by law.

The Mayor requested consideration of Resolution No. 2006-9 approving the final plat of Wyndham Hills and the accompanying subdivision agreement. **Wyndham Hills**, L.L.C. and Thomas E. Dover, Sr. request this 32-lot subdivision located north of Eldorado Hills. When development is complete, Dover Drive will connect from

25th Street to 37th Street.

Councilperson Kaspar-Beckman moved for adoption of Resolution No. 2006-9 approving the final plat of Wyndham Hills and authorizing the Mayor to sign the accompanying subdivision agreement, seconded by Councilperson Van Dyke. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Resolution No. 2006-9 was adopted.

The Mayor requested consideration of Resolution No. 2006-10 approving **sidewalk waivers** at 4801 North Deer Run Drive (Brad R. & Paula L. Pflueger), 4500 North Deer Run Drive (Dr. James S. & Dr. Renee M. Albin), 4600 Deer Run Drive (Diane Pennington), 4700 Deer Run Drive (David W. & Ann M. Johnson), 4800 Deer Run Drive (Jones Construction, L.L.C.) and 4800 South Deer Run Drive (Anthony and Marlene Borchers). All properties are located in Deer Run Addition.

Councilperson Van Dyke moved for adoption of Resolution No. 2006-10 approving sidewalk waivers at 4801 North Deer Run Drive (Brad R. & Paula L. Pflueger), 4500 North Deer Run Drive (Dr. James S. & Dr. Renee M. Albin), 4600 Deer Run Drive (Diane Pennington), 4700 Deer Run Drive (David W. & Ann M. Johnson), 4800 Deer Run Drive (Jones Construction, L.L.C.) and 4800 South Deer Run Drive (Anthony and Marlene Borchers), seconded by Councilperson Fauss.

Prevention Manager Scott Cordes explained when Deer Run Addition was approved, the subdivision agreement addressed hard-surfacing and sidewalks. The agreement requires sidewalks on lots along Benjamin Avenue and 49th Street as they are developed. The lots are developing and the owners are requesting a sidewalk waiver until abutting properties have sidewalks.

City Attorney Clint Schukei stated varying opinions exist regarding the specific number of years for which the waiver should be granted making it difficult for the resolution and subdivision agreement to be worded specifically for elected officials to consider. Therefore, five versions of the resolution were distributed to the elected officials. Version A-2 is the Planning Commission's recommendation with a 5-year waiver but is a substitute for the agenda packet copy because it is formatted to a more readable version. Version B-2 is a fill-in-the-blank version for the number of years the waiver is granted. Version C-2 has no expiration date for the waiver. Version D-2 has blanks for the City Council to add conditions to the waiver. Version E-2 is a denial of the sidewalk waiver.

Jim Kube, attorney for the Deer Run Addition property owners, spoke on behalf of the applicants. Kube said there aren't any sidewalks on either 49th Street or West Benjamin Avenue in that area and it isn't practical or necessary at this time to put in sidewalks for three reasons: maintenance, practicality, and health/safety issues. Kube stated it is not an expense issue for the property owners. The property owners are willing to install sidewalks when necessary. However, the nearest sidewalk is located over one mile away. Kube requested approval of Version C-2 of the sidewalk waiver resolution.

Councilperson Fauss feels Version C-2 with no time limit on the waiver is the best option.

Mayor Adams pointed out to the property owners that planning should be made for future installation of sidewalks, including grading and lawn sprinkler location.

Councilperson Brenneman agrees with a waiver on installation of the sidewalks but has concerns that there aren't any interior sidewalks in Deer Run Addition.

Councilperson Stauffer feels the City Council should approve the Planning Commission's recommendation for a five year sidewalk waiver. Stauffer feels the waiver should have a time limit.

Councilperson Van Dyke feels the waiver should have a time limit. Van Dyke said the property owners can apply for another waiver after five years. Van Dyke will not support a resolution with no time limit for the

sidewalk waiver.

Renee Albin, 4500 North Deer Run Drive, stated the closest sidewalk to the Deer Run Addition stops at 25th Street. Albin explained cost of the sidewalks is not the issue and property owners are willing to install sidewalks contiguous to other sidewalks in the future. Albin feels the City is not at a disadvantage because of a sidewalk waiver.

Councilperson Wilson feels sidewalks in the Deer Run Addition aren't appropriate at this time.

Councilperson Lange has concerns with an open-ended resolution for a sidewalk waiver.

Councilperson Saunders moved, seconded by Councilperson Kaspar-Beckman to approve Version C-2 of Resolution No. 2006-10 providing for no expiration date for the sidewalk waiver for properties located in Deer Run Addition. Roll call: Ayes: Councilpersons Kaspar-Beckman, Brenneman, Fauss, and Saunders. Nays: Stauffer, Lange, Van Dyke, and Wilson. There being a tie vote, Mayor Adams voted on the motion. Adams feels the waiver should not be open-ended and voted no. Motion failed.

Councilperson Fauss moved, seconded by Councilperson Wilson to approve Version B-2 of Resolution No. 2006-10 with for a ten (10) year sidewalk waiver for properties located in Deer Run Addition. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Resolution No. 2006-10 providing for a ten (10) year sidewalk waiver for properties located in Deer Run Addition was adopted.

Finance Officer Randy Gates provided information to the Mayor and City Council regarding the Comprehensive Annual Financial Report (CAFR) for fiscal year ended September 30, 2005 along with the related Single Audit Reports and auditor's letter.

Sales and use tax collection for the month of January 2006 was reported as \$489,732.52 and for the month of February 2006 was reported as \$483,327.03.

No comments were received regarding the Works-In-Progress report for the period April 12 through 25, 2006. The report was included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Kaspar-Beckman to adjourn the meeting at 8:58 p.m. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Kaspar-Beckman, 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, May 1, 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

( S E A L )