

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 2nd day of October, 2006, beginning at 7:30 p.m.

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

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Wastewater Plant Superintendent Todd Boling, Finance Officer Randy Gates, and Fire Chief Shane Weidner.

Council President Brenneman presided and the City Clerk recorded the proceedings.

Council President Brenneman 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.

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

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

SPECIAL PRESENTATIONS

Council President Brenneman proclaimed October 23-27, 2006, as "Red Ribbon Week" and October 1-7, 2006, as "Mental Illness Awareness Week."

A video entitled, "The Real Story Behind **TABOR/SOS**" was presented. The video was produced by the Center on Budget and Policy Priorities of Washington, DC and provided to municipalities by the League of Nebraska Municipalities. Council President Brenneman stated the presentation is only to provide information on the subject.

Following the video, League Executive Director Lynn Rex provided information to the Mayor and City Council. Rex stated the Nebraska Accountability & Disclosure Commission has reviewed the information presented. The SOS Initiative is funded by outside interest groups from New York who paid \$800,000 to petition circulators to get this on the November ballot. Rex stated the following will occur: 1) municipalities 1- and 6-year street plans would be affected with a 25% to 50% cut in funding from the Highway Trust Fund/Highway Allocation Fund; 2) municipal budgets would be impacted by state cuts in law enforcement funding which subsidizes training at the Law Enforcement Training Center in Grand Island and cuts in Byrne Funds for Drug Task Forces to fight meth; and 3) property taxes will increase and cuts in municipal services will occur, as well as other financial impacts on municipalities, if the S.O.S. (Stop Over Spending) Amendment (Initiative #423) passes in November. Rex said similar initiatives have been presented in 26 states but Colorado is the only state in the nation to adopt the TABOR (Taxpayer Bill of Rights). Colorado adopted TABOR in 1992 and in 2005 voted to put a 5-year suspension on the state constitutional amendment because of major consequences and problems caused by TABOR.

Councilperson Kaspar-Beckman questioned why Howie Rich from New York City, who is the major funding source for TABOR/SOS, is so interested in Nebraska approving Initiative 423.

Rex stated Howie Rich is a multi-millionaire from New York City who doesn't care about Nebraska. Rich has a national agenda and is probably interested in a national sales tax instead of paying income taxes. The League of NE Municipalities has asked the Nebraska Supreme Court to take jurisdiction of Initiative 423 because of the sponsorship rule. Rex stated there is a chance the Supreme Court will not allow the Initiative on the ballot.

City Administrator Mike Nolan pointed out Entry #21 under the City Administrator's Works-In-Progress which states, "On September 22, Dennis Smith and Michael Nolan had a phone conference with Lynn Rex regarding the impact of the SOS Amendment on Highway Trust funds received by Norfolk. Subsequently, Dennis Smith wrote an email to Michael Nolan that Nolan forwarded to the League of Nebraska Municipalities and *Norfolk Daily News*. Smith's email indicated that over the last five years the City of Norfolk has averaged \$1,635,000 annually from the State of Nebraska Highway Trust Fund. Of this amount \$463,000 has been used to help defray the annual Street Division maintenance expenses. The balance plus the funds received from the Nebraska Department of Roads as a pass-through from the Federal Highway Trust Fund have been used for street construction. If the funding from the State Highway Trust Fund is reduced 25%, the impact to the street construction program in Norfolk will be reduced 17%. If the funding from the State Highway Trust Fund is reduced 50%, the impact to the street construction program in Norfolk will be reduced 34%. Three ways to deal with these reductions are 1) slow street construction 2) replace money with property taxes or 3) develop new revenue sources such as a wheel tax. Areas impacted by slowed street construction are reductions in the City's ability to continue to make contract street repairs on residential streets throughout the community. Other projects that will be impacted are improvements to 25th Street between US 275 and Benjamin Avenue and improvements to Benjamin Avenue between 13th Street and 1st Street."

CONSENT AGENDA

The City Council approved the minutes of the September 18, 2006, City Council meeting as printed.

The City Council approved joining the Nebraska-Iowa Regional Ortho Photography Consortium allowing the City of Norfolk to participate in an upcoming **aerial photography** project and authorized the Mayor to execute all documents related to the project. Norfolk's cost for the project will be between \$22,000 and \$23,000.

The City Council approved **diagonal parking** on Norfolk Avenue between 7th and 8th Streets. Property owners requested the diagonal parking.

The City Council approved the Corporate Manager application of Becky Borosko in connection with the Class B liquor license of **Kum & Go**, L.C., dba Kum & Go #346, 101 East Omaha Avenue.

The City Council authorized the Council President to sign and forward a letter of no recommendation to the Nebraska Liquor Control Commission on the "Class C" liquor license application of Fifth Street Tavern, Inc., dba **Fifth Street** Tavern, and the Corporate Manager Application of Paula M. Chikos.

The City Council approved and authorized the Council President to sign Change Order No. 1 with Penro Construction Co., Inc., Pender, Nebraska, for the **Eisenhower** Avenue and 37th Street Water Improvements project resulting in a net decrease of \$5,668.50. The change order provides for balancing bid quantities with actual quantities.

The City Council ratified approval by the Finance Committee on September 18, 2006 to advertise for a replacement current year **ambulance** for the Fire Division.

The City Council approved a Special Designated Liquor License for **Hy Vee**, Inc., dba Hy Vee #2, 2107 Taylor Avenue, to sell beer and wine at Sacred Heart Parish Center, 2301 West Madison Avenue, on Monday, November 6, 2006, for the yearly priest appreciation dinner.

The City Council approved the following board member changes for the **Vehicle Parking** District: reappointment of Steve McNally for a three-year term; reappointment of Roger Brummels to a one-year term; appointments of Tim Howard and Steve Wiedeman for three-year terms; and termination of Mark Raders and Nick Leuschen appointments.

The City Council approved the appointment of Don Polodna to replace Sallie Rice on the Norfolk Public **Library** Advisory Board. Polodna's term expires in July 2008.

The City Council approved and authorized the Council President to sign an Addendum Agreement with **P M Enterprises**, L.L.C. relating to the purchase of Chicago and Northwestern Railroad right-of-way property by P M Enterprises, L.L.C. The property lies northwest of the intersection of Queen City Boulevard and Maple Avenue. Purchase price for the property located on Queen City Boulevard is \$13,633.33. The Addendum Agreement modifies the legal description, adjusts the purchase price accordingly and modifies the payment terms from the original Agreement dated February 17, 2004.

The City Council approved and authorized the Council President to execute a deed to P M Enterprises, L.L.C. and to sign as an owner on behalf of the City of Norfolk reference a lot boundary change at 801, 805 and 807 Queen City Boulevard.

The City Council approved all bills on file in the amount of \$1,581,149.31.

REGULAR AGENDA

A public hearing was held to consider a zoning change from C-3 (Service Commercial District) to R-3 (Multiple Family Residential District) at 309 **North 32nd** Street at the request of MBH Development, LLC. Dick Johnson, Johnson Engineering, stated MBH Development, LLC, is seeking the zoning change to allow construction of a triplex on the property. There are similar buildings to the west and this request merely moves an existing boundary between the residential and commercial areas.

On September 19, 2006, the Norfolk Planning Commission held a public hearing regarding the request from MBH Development, LLC. 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 Council President Brenneman declared the hearing closed.

Council President Brenneman requested consideration of Ordinance No. 4907 changing the zoning from C-3 (Service Commercial District) to R-3 (Multiple Family Residential District) at 309 North 32nd Street.

Councilperson Lange introduced Ordinance No. 4907 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 Kaspar-Beckman seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. Motion carried. Ordinance No. 4907 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 Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. 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 Council President then stated the question "Shall Ordinance No. 4907 be passed and adopted?" Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Council President signed and approved the

ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Council President then instructed the City Clerk to publish said Ordinance No. 4907 as required by law.

The Council President requested consideration of Ordinance No. 4906 establishing rates for **disposal of wastes** delivered to the Water Pollution Control Plant.

Councilperson Fauss introduced Ordinance No. 4906 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 26-97 OF THE OFFICIAL CITY CODE TO INCLUDE MUD PIT HANDLING FEES; TO ENACT SECTION 26-103 OF THE OFFICIAL CITY CODE TO PROVIDE FOR WASTEWATER DUMP STATION DISPOSAL FEES; 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, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. Motion carried. Ordinance No. 4906 passed on first reading.

Councilperson Kaspar-Beckman moved that the statutory rule requiring reading on three different days be suspended. Councilperson Lange seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. 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 Lange. The Council President then stated the question "Shall Ordinance No. 4906 be passed and adopted?" Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Council President signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Council President then instructed the City Clerk to publish said Ordinance No. 4906 as required by law.

Council President Brenneman requested consideration of Ordinance No. 4908 authorizing the sale of a parcel of abandoned Chicago and Northwestern Railroad right-of-way property lying northwest of the intersection of Queen City Boulevard and Maple Avenue to **P M Enterprises, L.L.C.**

Councilperson Lange introduced Ordinance No. 4908 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 Saunders seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. Motion carried. Ordinance No. 4908 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 Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. 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 Council President then stated the question "Shall Ordinance No. 4908 be passed and adopted?" Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Council President signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Council President then instructed the City Clerk to publish said Ordinance No. 4908 as required by law.

Sales and use tax collection for the month of July 2006 was reported as \$537,925.94.

No comments were received regarding the Police Division report for August 2006 or the Works-In-Progress report for the period September 13 through 26, 2006. Both reports were included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Kaspar-Beckman to adjourn the meeting at 8:17 p.m. Roll call: Ayes: Councilpersons Lange, Kaspar-Beckman, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Stauffer and Van Dyke. 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, October 2, 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.

Elizabeth A. Deck
City Clerk

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