

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 5th day of September, 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, Wilson, Fauss, and Saunders. Absent: Kaspar-Beckman and Brenneman.

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Transportation, Building & Grounds Director Jim Koch, Finance Officer Randy Gates, Health Inspector John Kouba, Police Chief Bill Mizner and Fire Chief Shane Weidner.

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.

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

The Mayor requested removal of Item No. F-1, Resolution No. 2006-21, and Item No. F-2, Resolution No. 2006-23, relating to the Ponca Tribe and Nebraska Christian College.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to remove Items No. F-1 and F-2 from the regular agenda and adopt the regular agenda as amended. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. Motion carried.

CONSENT AGENDA

The City Council approved the minutes of the August 21, 2006 City Council meeting.

The City Clerk was authorized to establish September 18, 2006 as the date for the Mayor and City Council to sit as a Board of Equalization to conduct a public hearing for equalization of

special assessments for Paving District No. 490 (**Homewood Acres** Sixth Addition), Paving District No. 491 (**College View** 5th Addition) and Paving District No. 492 (**Fox Ridge** Phase II Addition).

The City Clerk was authorized to establish September 18, 2006 as the date for a public hearing to review the City of Norfolk's FY 2006-2007 **municipal** budget.

The City Clerk was authorized to establish September 18, 2006 as the date for a public hearing to review the City of Norfolk's FY 2006-2007 **proprietary** budgets (water, sewer, solid waste).

The City Clerk was authorized to establish September 18, 2006 as the date for a public hearing to receive public comment regarding approval of the City of Norfolk's **General Fund** and **Vehicle Parking** Fund property tax requests for FY 2006-2007 in amounts different from FY 2005-2006.

The City Council approved a Special Designated Liquor License for **Sacred Heart** Church to sell beer at 2301 West Madison Avenue on Saturday, October 14, 2006, for a fundraising dinner and auction.

The City Council approved and authorized the Mayor to sign an agreement with **Norfolk Office Equipment** for the City's installation of a pedestrian push button on a sign pole owned by Norfolk Office Equipment located at the intersection of 1st Street and Madison Avenue.

The City Council approved the Engineers Final Certificate for **Paving** District No. 489 (Green Meadow Addition), Paving District No. 490 (Homewood Acres Sixth Addition), Paving District No. 491 (College View 5th Addition) and Paving District No. 492 (Fox Ridge Phase II Addition).

The City Council authorized the Mayor to sign and forward a letter of no recommendation to the Nebraska Liquor Commission on the Class C liquor license application of **Hy-Vee, Inc.**, 310 East Norfolk Avenue, and the Corporate Manager Application of Paul R. Ignowski.

The City Council authorized the Mayor to sign and execute a deed to correct Lot 6, Block 12, **College View 4th** Addition. The deed is necessary to move forward with a lot boundary change with McIntosh Family LLC, J. Paul McIntosh.

The City Council approved all bills on file in the amount of \$1,694,977.33.

REGULAR AGENDA

A public hearing was held to consider amending Section 12-18 of City Code to include the owner of a condemned structure as well as the owner of the property upon which a **condemned structure** is located as a responsible party for the removal of said structure, and to establish a fee for filing an application for appeal to the Property Maintenance Code Board of Appeals. Health Inspector John Kouba provided information to the Mayor and City Council. Kouba explained the current property maintenance code has a provision that when a structure becomes so out of repair that it is the subject of enforcement action, particularly condemnation and demolition, the structure must be removed by the owner of the property. There are some instances that arise where the owner of the structure may be different than the owner of the property. This

amendment will address that issue to enable the responsibility be held by the owner of the structure as well as the owner of the property. The second part of the ordinance establishes a \$500 fee to appeal a decision to the Property Maintenance Code Board of Appeals. The fee will help cover costs associated with the appeal process including costs of publication, costs of a court reporter and costs of a transcript of the meeting. Kouba stated the fee may give an individual making the appeal an incentive to consider merits of an appeal before proceeding. Should an appeal be successful, the \$500 fee will be refunded to the applicant.

Councilperson Saunders questioned whether City staff is looking at a current situation that gave rise to this ordinance.

Kouba stated the proposed ordinance will apply to any property maintenance action. There is an on-going process of property maintenance reviews and actions subject to appeal.

Lori Miller, owner of Maple Park Trailer Court located on North 1st Street, spoke in opposition to the ordinance. Miller feels the main reason for the ordinance is because "the City has condemned at least 12 trailers" in Maple Park Trailer Court "just by walking around the outside of the trailers." Some of the trailers were cited for faulty steps and an electrical wire that runs into a shed. Miller said homeowners are not given an opportunity to make repairs. Miller feels City staff changed procedures in dealing with the issue. Miller stated homeowners first received a yellow notice and "the tenant was allowed 20 days" to make repairs. If repairs weren't made, the trailers were red tagged for condemnation. Miller stated City staff quit giving "them the chance to make repairs" and the trailers are immediately tagged condemned and unfit for occupancy. Miller stated the trailers are being "taped off with a do not enter tape" and homeowners are being left homeless. Miller stated one homeowner was inside the trailer, because they were afraid to answer the door, when it was "taped off." Miller stated the City should not be allowed "to make someone homeless" without a court order. Miller stated citizens living in trailers "typically can't afford the \$500 appeal fee" and the City is just making it difficult for citizens to file an appeal.

Councilperson Saunders questioned how long the City has been dealing with issues in the Maple Park Trailer Court.

Kouba stated the City has been dealing with life safety issues in Maple Park Trailer Park since 2004. Kouba stated, most recently, a trailer was inspected on Friday, September 1, 2006 and the structure was red tagged because of significant electrical violations. Another inspection on September 1, 2006 was on an occupied trailer with no gas service. The trailer is served by a gas stove, water heater and furnace. The occupants were given notice to vacate the premises within the next few weeks. City staff discussed housing options with the residents that day and made arrangements, prior to leaving the property, for those individuals to stay at a place over the weekend so they could look for a new residence the next week. Kouba stated staff does deal with families in a lot of the trailers and recognizes the serious nature of the situations. City staff is trying to be compassionate but must address safety problems.

Saunders feels the City Council is obligated to look out for the welfare and safety of citizens in the community.

Councilperson Fauss questioned whether the yellow posters are still available for use.

Kouba stated the yellow posters are still available. A yellow tag is generally for a structure that is unfit for occupancy or use and the premises needs to be vacated after a certain amount of time. The red tag is a structure that is condemned for demolition and must be vacated immediately. Yellow tape is applied to structures in instances when the yellow placard is being ignored.

Fire Chief Shane Weidner stated an important point is that the yellow placards are being discarded and/or ignored. The yellow tape draws the attention of citizens but does not bind anyone into the structure. City staff is using the yellow tape because the yellow tag process has been exhausted in Maple Park Trailer Court.

Councilperson Wilson emphasized that the appeal fee will be refunded to citizens if a ruling is found in their favor.

City Attorney Clint Schukei stated one of the important issues is to recognize that the appeal fee helps cover publication costs, court reporter fees and the cost to prepare a transcript in the case of an appeal. Schukei stated the Property Maintenance Board of Appeals consists of members with expertise in electrical, plumbing, construction and engineering and the appeal process begins with an on-site inspection. Schukei does not remember any Board of Appeals hearing involving a mobile home.

Councilperson Van Dyke questioned whether Maple Park Trailer Park has natural gas service to the trailers. Van Dyke has concerns because winter is coming.

Kouba stated the majority of the trailers in Maple Park Trailer Park are without natural gas.

Miller stated an appeal regarding a mobile home was made but was denied by the City.

Schukei explained Aquila shut off the gas service to a large portion of Maple Park Trailer Court because of safety concerns with faulty gas lines. The Millers could get a permit to replace the gas lines but have not done so to date. The Millers have not made necessary repairs in the trailer park and several residents of the trailer park told City staff they were told to use a common bath house in a trailer that was subsequently condemned. Schukei explained it is only two months away before the need for heat and the gas company is not going to allow gas to those trailers because of substandard gas lines. Schukei stated Lori Miller did make an effort to appeal a decision on the mobile homes. However, according to Madison County records, the Millers don't have any ownership interest in any of the mobile homes. City Code requires the operator of a mobile home to have a register of who owns the mobile homes, who resides in the mobile homes, etc. The Millers must provide that information to City staff but as recently as 2-3 weeks ago, the Millers make no contention that they own any of the mobile homes. Without ownership interest in the mobile homes, the Millers can't appeal any decision made by the Permits & Codes staff. The proposed ordinance broadens who is responsible for removal of a condemned structure and may be helpful to the Millers.

Weidner stated Permits & Codes staff are working at identifying mobile homes in the worse shape but are going through the other mobile homes park in the City's jurisdiction. The Maple Park Trailer Court is a priority at this time because of life safety issues.

No one else appeared either in favor of or in opposition to the City Code amendment and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4896 amending Section 12-18 of City Code to include the owner of a condemned structure as well as the owner of the property upon which a condemned structure is located as a responsible party for the removal of said structure and to establish a fee for filing an application for appeal to the Property Maintenance Code Board of Appeals. Ordinance No. 4896 was tabled at the August 21, 2006 City Council meeting.

Councilperson Wilson moved, seconded by Councilperson Saunders to bring Ordinance No. 4896 from the table. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. Motion carried.

Councilperson Wilson introduced Ordinance No. 4896 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 12-18 OF THE OFFICIAL CITY CODE TO INCLUDE THE OWNER OF A CONDEMNED STRUCTURE AS WELL AS THE OWNER OF THE PROPERTY UPON WHICH A CONDEMNED STRUCTURE IS LOCATED AS A RESPONSIBLE PARTY FOR THE REMOVAL OF SAID STRUCTURE, AND TO ESTABLISH A FEE FOR FILING AN APPLICATION FOR APPEAL TO THE PROPERTY MAINTENANCE CODE BOARD OF APPEALS; 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 Saunders 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, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. Motion carried. Ordinance No. 4896 passed on first reading.

Because of life safety issues, Councilperson Lange moved that the statutory rule requiring reading on three different days be suspended. Councilperson Stauffer seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. 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 Saunders. The Mayor then stated the question "Shall Ordinance No. 4896 be passed and adopted?" Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. 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. 4896 as required by law.

A public hearing was held to consider enactment of Section 27-294 of City Code to address periodic **garage, rummage, and yard sales** in residential areas. Health Inspector John Kouba provided information to the Mayor and City Council. Following citizen complaints, City staff

was directed to create an ordinance with language to curtail those garage sales that become intrusive to neighborhoods based both on the longevity of each event and the frequency of the events. Traditional garage sale activity that occurs in Norfolk on an ongoing basis is not expected to be affected by the regulation change. The ordinance allows three garage, rummage or yard sales, or any other periodic sales, per calendar year. It also states that any such sale shall not be held for more than three (3) consecutive days. Kouba explained City staff will respond on a complaint basis only for this ordinance.

Councilperson Van Dyke questioned whether the ordinance will deal with abandoned cars.

City Attorney Clint Schukei stated abandoned cars are not included in this ordinance but will be dealt with separately. Schukei stated citizens can be fined up to \$100 per day for violating Section 27-294 of City Code. Schukei also explained the State of Nebraska defined an occasional sale in the Sales Tax Regulations as “such sales may not be held on more than three days during a calendar year at any residence” unless sales tax is collected and remitted to the State. The City of Norfolk’s definition of the frequency of garage sales is actually being more user-friendly than the State of Nebraska’s definition.

Fire Chief Shane Weidner stated City staff is not opposed to garage sales. Staff will talk to and educate citizens on the limitations of garage sale activity.

Councilperson Wilson feels the ordinance gives Permits & Codes Division staff an enforcement tool for those citizens who are operating a business like a garage sale.

Mayor Adams received calls from citizens who feel the community needs to have a mechanism in place to stop continuous garage, rummage and yard sales.

No one else appeared either in favor of or in opposition to the City Code amendment and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4898 enacting Section 27-294 of City Code to address periodic garage, rummage, and yard sales in residential areas.

Councilperson Lange introduced Ordinance No. 4898 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO ENACT SECTION 27-294 OF THE OFFICIAL CITY CODE TO ADDRESS PERIODIC GARAGE, RUMMAGE, AND YARD SALES IN RESIDENTIAL AREAS; 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 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, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. Motion carried. Ordinance No. 4898 passed on first reading.

Councilperson Fauss 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 Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. 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 Fauss 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. 4898 be passed and adopted?" Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. 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. 4898 as required by law.

The Mayor requested consideration of Ordinance No. 4897 expanding the definition of **telecommunication** services subject to the City's 3% occupation tax. Ordinance No. 4897 passed on first reading at the August 21, 2006 City Council meeting.

Councilperson Van Dyke introduced Ordinance No. 4897 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 13-80 OF THE OFFICIAL CITY CODE TO INCLUDE AN OCCUPATION TAX UPON EVERY PERSON, FIRM, PARTNERSHIP, CORPORATION OR ASSOCIATION ENGAGED IN THE BUSINESS OF OFFERING OR PROVIDING TELECOMMUNICATION SERVICES TO THE PUBLIC FOR HIRE IN THE CITY OF NORFOLK; TO REPEAL SECTION 13-84 OF THE OFFICIAL CITY CODE REGARDING EXEMPTIONS; TO REPEAL SECTION 13-85 OF THE OFFICIAL CITY CODE RELATED TO TAX IN LIEU OF OTHER 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 second reading. Councilperson Lange seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Councilperson Fauss received phone calls from citizens upset with the proposed tax. The citizens are not necessarily opposed to a "cell phone tax" but are tired of taxes in general.

Councilperson Lange stated many citizens seem to want the E911 service but don't want to pay for it.

City Administrator Mike Nolan explained the estimated cost per capita is \$1.00 per month, Nolan stated landline revenue has steadily decreased and the City needs additional revenue to operate the E911 Center.

Councilperson Wilson feels the issue is safety and people need to understand that cell phones are not the only service covered by this ordinance.

Lonny Miller, 304 North Hickory, spoke in opposition to the "cell phone tax" and feels the City needs to cut expenses.

Mayor Adams stated the City of Norfolk's budget is "very responsible" and citizens do have a choice with the additional tax on expanded telecommunication services. Mayor Adams stated

the City does not spend money foolishly and the alternative to the expanded telecommunication services tax is raising property taxes.

Lonny Miller did not respond when questioned whether property taxes should be raised to replace lost revenue.

Councilperson Wilson stated regionalization of E911 services could save money but entities don't seem to want to regionalize.

City Administrator Mike Nolan stated this is the fifth year the Nebraska Legislature will be asked to consider regionalization of dispatch centers.

Roll call on Ordinance No. 4897: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, and Saunders. Nays: Fauss. Absent: Kaspar-Beckman and Brenneman. Motion carried. Ordinance No. 4897 passed on second reading.

Finance Officer Randy Gates explained Ordinance No. 4897 has an effective date of September 10, 2006 and a Special City Council meeting may be needed to consider the ordinance on 3rd reading.

Councilperson Fauss moved that the statutory rules requiring reading on three different days be suspended for Ordinance No. 4897, seconded by Councilperson Lange. Roll call: Ayes: Councilpersons Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: Stauffer. Absent: Kaspar-Beckman and Brenneman. Motion to suspend the rules requires three-fourths vote of the Council and the motion failed.

No comments were received regarding the Police Division report for July 2006. The report was included in the agenda packets.

Sales and use tax collection for the month of June 2006 was reported as \$570,358.65.

No comments were received regarding the Works-In-Progress report for the period August 16 through 29, 2006. The report was included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Wilson to adjourn the meeting at 8:41 p.m. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman and Brenneman. Motion carried.

Gordon D. Adams
Mayor

ATTEST:

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 Tuesday, September 6, 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

(S E A L)