

CITY OF NORFOLK, NEBRASKA

The Mayor and City Council of the City of Norfolk met in special session in the Council Chambers, 309 West Madison Avenue, Norfolk, Nebraska on the 24th day of October, 2006, beginning at 7:00 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, Brenneman, Fauss, and Saunders. Absent: Kaspar-Beckman.

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Fire Chief Shane Weidner, Administrative Secretary Bethene Hoff, Police Chief Bill Mizner, Information Systems Manager Jim McKenzie, Water & Sewer Director Dennis Watts, Finance Officer Randy Gates, Solid Waste Manager Gary Lund, Prevention Manager Scott Cordes, Shift Commander Doug Dekker, Property/Operations Manager Gary Miller, and Program Administrator Kim Kwapnioski.

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

CONSENT AGENDA

The City Council approved the minutes of the October 16, 2006 City Council meeting as printed.

REGULAR AGENDA

The Mayor requested consideration of Resolution No. 2006-30 approving an independent review of the relationship between the City of Norfolk, its elected and appointed personnel, and the Norfolk Chamber of Commerce and its staff and organization.

Councilperson Van Dyke introduced Resolution No. 2006-30 approving an independent review of the relationship between the City of Norfolk, its elected and appointed personnel, and the Norfolk Chamber of Commerce and its staff and organization, seconded by Councilperson Saunders.

Councilperson Wilson moved, seconded by Councilperson Fauss to amend Resolution No. 2006-30 by striking paragraph "C" in the resolution Recitals. Roll call: Ayes: Councilperson Stauffer, Lange,

Van Dyke, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman. Motion carried.

Councilperson Van Dyke moved, seconded by Councilperson Stauffer to amend Resolution No. 2006-30 by adding the words “or unknown persons” to paragraph “B” in the resolution Recitals to read in part, “The staff of the Norfolk Chamber of Commerce, or unknown persons, committed the expenditure . . . “. Roll call: Ayes: Councilperson Stauffer, Lange, Van Dyke, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman. Motion carried.

Lynn Rex, Executive Director of the League of Nebraska Municipalities, spoke in favor of the resolution. The League is a non-profit organization serving Nebraska communities. The League works with communities on various issues, including economic development. Rex would like this independent review to serve as a case study for economic development problems in other Nebraska municipalities. Rex stated once the issue “exceeded the borders of Norfolk then it became a League issue.” Rex feels elected officials have the obligation to move forward with the independent review. Rex explained the League is paying to hire Attorney Dave Domina to provide the independent review. Domina is a first class lawyer and has true integrity. Rex said there is a wedge existing between Norfolk officials and Chamber of Commerce staff and the independent review will provide fact-finding on the economic development issue regarding an information technology company and the City’s expenditure of public funds designated for economic development projects. Rex stated this issue needs to be resolved before the start of the Legislative session in January 2007.

Councilperson Fauss has concerns with the resolution and feels the issue can be resolved without an independent review. Fauss does not feel the review will be a “true independent review”. Fauss suggested the use of a mediator and not a lawyer.

Councilperson Lange questioned the time frame for completing the independent review.

Dave Domina, Omaha, has worked with the League on a previous issue and can tell there is a controversy in Norfolk. However, Domina doesn’t know much about the controversy and is willing to undertake the task of the independent review. Domina does know the controversy involves the City’s use of funds and a contract with the Chamber of Commerce. Domina is able to approach the matter without knowing information beforehand. Domina does not know how long the review will take because of the lack of knowledge on the subject.

Lange stated Domina should take as long as necessary to complete the study with thoroughness and professionalism.

Councilperson Van Dyke questioned whether the resolution provides too many parameters and is too restrictive.

Domina doesn’t feel the resolution is too restrictive; however, the parameters can be expanded if necessary. Domina said it is best to keep the parameters narrow and not get political with the review.

Adam Staib, Stanton, questioned whether the review will just “broaden the problem”.

Domina said an investigation is one matter and a conclusion is another matter. If illegal problems are found in the review, Domina has a professional obligation to report those subjects; however, the City would need to decide whether to investigate or not.

Councilperson Saunders stated elected officials should expect accountability and encouraged fellow Council persons to approve the resolution. Saunders feels the independent review will dispel allegations and the City and Chamber will be able to “move forward with a clean slate.”

Councilperson Fauss questioned how many times the City is audited throughout the year.

Finance Officer Randy Gates stated the City is audited annually by an independent auditor. There are also audits of grants received by the City.

Fauss feels the City is “checked annually” for expenditure of public funds and the independent review is not necessary. Fauss questioned whether the subcommittee who met with Chamber Board members is defunct.

Mayor Adams said the subcommittee and Chamber Board members met in August and the situation seemed to improve for a short time. The subcommittee felt there was no need to move forward until now.

Mike Renken, Stanton, spoke in opposition to the resolution. Renken has never heard that the issue is misuse of funds for economic development but rather now elected officials “treat citizens.” Renken feels an independent review will only “drive the wedge deeper” and it will take at least five years for the City to recover.

Councilperson Stauffer stated the issue can’t be ignored and needs to be cleared up.

Councilperson Van Dyke feels both sides can be reasonable and should be able to sit down and resolve the issue without an independent review. However, Van Dyke agrees “the problem can’t continue.”

Fauss agrees with Stauffer and Van Dyke. Fauss said Mauk and Nolan need to get along or be fired. Fauss does not agree with the resolution and feels a mediator would be a better choice. Fauss has concerns with the subcommittee process.

Stauffer agrees with Fauss but supports the resolution because the issue has gone “outside of Norfolk”. The independent review will clear up ambiguity on the use of economic development funds.” Stauffer can’t fault Chamber Board members but the issue needs to be resolved. The review will help clarify such issues for other cities in the same type of situation.

Councilperson Wilson feels the resolution will clear up the “integrity of the Council” and that citizens need to trust elected officials to make the right decisions on expenditure of funds.

Fred Otten, President of Elkhorn Valley Bank, questioned “why the most expensive trial lawyer in Nebraska” is being hired for the independent review. Otten feels the City of Norfolk has impartial citizens and/or CPA’s qualified to review the issue. Otten has never heard any accusations about the City misusing funds. Otten feels Norfolk “will become the laughing stock of Nebraska” if the resolution is approved. Otten is embarrassed elected officials are even considering such a resolution and stated it “will not help Norfolk.”

Senator Mike Flood feels both Dan Mauk and Mike Nolan have the best interests of Norfolk in mind. However, “no one should be surprised we are here”. Flood suggested elected officials “put this on hold for two weeks” and offered to have Bill Dittrick, a certified mediator, “figure out an agreement

with the City and Chamber” to be able to get on with business in Norfolk. Flood doesn’t fault either side but feels two weeks can get the issue resolved. Flood stated that if the issue isn’t resolved in two weeks, Domina can do the independent review. Flood said Norfolk needs “to be together” and has faith in the people involved.

Mayor Adams said this issue is a very serious issue because the Nebraska Department of Economic Development won’t send economic development prospects to municipalities “with known problems”. Mayor feels the facts need to be made public and then fences need to be mended. Mayor Adams has not seen good progress in mending fences and feels the resolution is the “right step now”. Following the independent review, a mediator can be used to help Norfolk get back on track.

Lynn Rex explained the review will provide facts. Rex pledged the League board will support and pay for mediation after the review is complete. Rex stated both sides (City and Chamber) should agree on who provides mediation.

Vaughn Wiebusch, Norfolk, spoke in opposition to the resolution and feels the problem between the City and Chamber is relationships. The issue needs to be resolved and then everyone needs respect each other. Wiebusch doesn’t feel the independent review will be unbiased. Wiebusch doesn’t feel tax dollars should be spent on the independent review.

Rex stated no tax dollars are being spent on the independent review. The League has a bifurcated budget with funds received from dues but also money received from the sale of books, etc. Taxpayer dollars are not being used to pay for the review. Rex supports the resolution because the review can also be used for making a case to the Legislature related to economic development issues.

Brandon Theophilus, Norfolk, urged elected officials to listen to Senator Flood and Mike Renken’s suggestions to not pass the resolution. Theophilus feels a “great way to not see a friendly end to this issue is to involve an attorney.” However, elected officials may need to if “all else fails”. Theophilus has never heard anything said about the City of Norfolk misusing funds. Theophilus feels the lack of good working relationships is the issue.

Tom Schommer, Norfolk, urged elected officials to “listen to the public” and Senator Flood’s suggestion before rushing to another decision. Schommer stated “no one but Lynn Rex has spoken in favor of the resolution.” The issue should be about solutions and Schommer urged elected officials to not do something that leads to more conflict. Schommer questioned the harm in tabling the resolution for two weeks.

Councilperson Wilson said a Council subcommittee has met with Chamber Board members to discuss the issue but to no avail. However, Wilson feels the use of mediation is a good idea.

Councilperson Brenneman stated something needs to be done to provide a solution to the issue.

Councilperson Van Dyke moved, seconded by Councilperson Wilson to table consideration of Resolution No. 2006-30 until the November 6, 2006 City Council meeting. Roll call on the motion to table Resolution No. 2006-30: Ayes: Councilpersons Stauffer, Van Dyke, Wilson, Brenneman, Fauss and Saunders. Nays: Lange. Absent: Kaspar-Beckman. Motion carried. Resolution No. 2006-30 was tabled.

Senator Flood suggested the City of Norfolk hire a mediator. Flood said the State Bar President is a fair person. Flood feels ground rules need to be in place for the mediation and that nothing should be transcribed during the mediation process.

Mayor Adams said the Council cannot consider hiring a mediator because such an item isn't listed on the agenda.

Gene Tyson, Norfolk, stated a mediator is not effective without a set of facts.

Councilperson Lange voted against the motion to table because of the time frame. Lange would have liked the motion to be without a date certain.

City Attorney Clint Schukei stated Resolution No. 2006-30 will appear on the November 6, 2006 City Council meeting. The agenda for that meeting will be prepared on November 2 so a full two weeks is not available for the mediation process. Schukei also stated the November 6 agenda may include an item to hire a mediator. Schukei wanted elected officials to be aware of this prior to receiving the agenda packet for the meeting.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to adjourn the meeting at 8:39 p.m. Roll call: Ayes: Councilpersons Stauffer, Lange, Van Dyke, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: Kaspar-Beckman. 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, October 24, 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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