

## 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 3rd day of December, 2007, 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: Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman and Fauss. Absent: Saunders.

Staff members present were: Public Works Director Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Prevention Manager Scott Cordes, Fire Chief Shane Weidner 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.

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

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

### CONSENT AGENDA

The City Council approved the minutes of the November 19, 2007, City Council meeting as printed.

The City Council adopted Resolution No. 2007-61 related to a **Safe Routes to School** grant being applied for by the Greater Norfolk Economic Development Foundation, Inc., along the North Fork of the Elkhorn River from Elm Avenue to existing trail south of the YMCA. This project is in conjunction with the Riverfront project.

The City Council approved and authorized the Mayor to execute a purchase agreement and all related documents with **Roman Packing Co.** for the City's acquisition of the floodway portion of the Roman Packing Company property on South 13th Street in the amount of \$110,000.

The City Clerk was authorized to advertise for a replacement **copier** for the administration division.

The City Council approved the purchase of three replacement **police cruisers** off the State of Nebraska contract for a total of \$59,502.00.

The City Council approved all bills on file in the amount of \$1,040,115.03.

## REGULAR AGENDA

The Mayor requested consideration of Ordinance No. 4985 amending the Norfolk Comprehensive Plan at **25th Street/Pasewalk Avenue and Michigan Avenue** from commercial to high density residential. Ordinance No. 4985 was tabled at the November 19, 2007 City Council meeting.

Councilperson Van Dyke moved to bring Ordinance No. 4985 from the table, seconded by Councilperson Reeder. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman and Fauss. Nays: None. Absent: Saunders. Motion carried.

Mayor Adams recognized the large number of citizens in the audience who came to discuss this particular issue and requested that comments not be redundant.

Paul Medelman, 702 West Benjamin Avenue, spoke in favor of the Comprehensive Plan amendment and zoning changes on behalf of SWAD LLC. Medelman has owned the property for almost five years and has not been able to sell it as an industrial site. Medelman stated the developer recognized neighbors' concerns and addressed them. Access to the development was changed to 23rd Street instead of Pasewalk Avenue. Medelman reviewed "Daily Traffic Counts and Zoning Comparisons" distributed in the agenda packets. The areas noted were at 1st Street and Benjamin Avenue (approximately 16,500 vehicles per day); Pasewalk and Michigan (approximately 1,500 vehicles per day); and Riverside, south of Alaska (approximately 6,000 vehicles per day). Medelman stated the proposed C-3 zoning will provide a good buffer between the industrial sites to the south of the proposed residential zoning. Medelman feels the zoning request complies with the City's Comprehensive Plan for mixed use zoning and read from the City's Comprehensive Plan under Growth and Land Use stating the area in southwest Norfolk "has an almost equal amount of residential and commercial development. This heavy concentration of commercial development can be capitalized on with the development of more mixed use and higher density residential development. The southwest growth center will support almost 340 acres of residential development but it will also include another 300 acres of business park development. Connecting residents to employers and commercial needs will be an important feature of future development in this quadrant." Another part of the Comprehensive Plan states, "housing near employment centers in Norfolk can improve the flow of traffic systems." Medelman stated Norfolk needs more housing/apartment units to attract industries. Medelman distributed a map of "Comparative Distance of Local Business, Industry and Surrounding Residential Zoning" for the area. According to the map, the trailer park located north of Hwy 275 is closer to industrial sites than the proposed apartment complex. Medelman stated surrounding property owners--Desai, Renken and Lambrecht--do not oppose the zoning changes and proposed development. Medelman encouraged elected officials to promote growth

and opportunity for the City of Norfolk by approving the comprehensive plan amendment and zoning change requests.

Councilperson Fauss questioned whether Medelman has been unable to sell the property and whether Medelman purchased adjoining land from Desai.

Medelman has owned the property for about five years and has not had any industries wanting to purchase the property. Medelman has not purchased more property in the area. However, if the residential zoning is approved, Medelman may purchase more property in the area.

Tom Tomlinson, 3416 Golf View Drive, spoke in opposition to the rezoning and comprehensive plan amendment. Tomlinson stated major employers in Norfolk have voiced strong concerns against the development. Tomlinson feels the project is proposed in the wrong area of Norfolk and has concerns with the lack of sidewalks in the area, "locking children in with a fence," and increased traffic. Tomlinson feels there are other areas in the City to accommodate the apartment complex development. Tomlinson "heard testimony at the Planning Commission meeting where one business owner there planned on moving out of the City but was talked into relocating back into the City in this very same area." Tomlinson stated the City needs to work with the business community for economic development growth. Tomlinson urged denial of the comprehensive plan amendment and rezoning changes.

Councilperson Coy stated Medelman will put in sidewalks if the development is approved.

Mike Smith spoke on behalf of Pedcor, the developer of the proposed apartment complex. Pedcor is a multi-family developer and will utilize the tax credit program. The project will provide affordable housing and economic development for Norfolk. Smith reviewed the City's Comprehensive Plan and the project is consistent with the Plan. Smith distributed information on the proposed project to be named Deer Creek Apartments. The proposal is for 4-16 unit apartment buildings plus a clubhouse and swimming pool. Target incomes are \$16,000 to \$35,600 with 7,000+ households in a 5 mile radius that qualify. The apartments are not subsidized but applicants must qualify to live in the complex. A Novagradics Study states Norfolk will need 308 units within the next 24 months and the Norfolk Housing Agency has 170 households on a waiting list. Traffic will not be large with an estimated 7 vehicles entering and 28 exiting in the AM peak and 39 entering and 21 exiting in the PM peak. Projected demographics based on units in Grand Island and Kearney are 86% single/divorced/widowed with 68% being female and a total of 37 children (27 – 0-5 yrs; 8 – 6-13 yrs; and 2 – 14-17yrs). The economic impact for the City of Norfolk is an \$8.3 million project with 2 full-time employees and 2-3 part-time employees. Estimated annual property taxes are \$30,000 and the complex will have an annual operating budget of \$193,000. Smith stated other sites were evaluated and could not meet the timing or costs needs of the project. The proposed site meets the business model for high probability of long term success. Smith stated the final application deadline for the Nebraska Investment Finance Authority (NIFA) funds was November 30, 2007 and cannot be amended at this time. The NIFA process is very competitive and, if the project was awarded funds, it would total more than \$3 million over a ten year period. Smith stated the other \$5 million project costs are leveraged funds with conventional financing. In return for the tax credit, rents are capped at a percentage of the area median income for 45 years. Smith stated the real estate taxes are determined, based on Nebraska law, by evaluating affordable housing communities and then assessed based on income. Smith stated that, if the application is not approved by Norfolk, alternative Nebraska market areas will be evaluated for the project.

Councilperson Reeder questioned whether Smith will move forward with the project without the use of tax credits.

Smith stated the project will not move forward without the tax credits and the NIFA application will need to be withdrawn if the rezoning is not approved.

Councilperson Brenneman asked whether the complexes in Kearney and Grand Island are abutting light industry tracts.

Smith stated the Kearney property is surrounded by commercial, residential (R-1) and duplexes. Menards is two blocks away and McDonalds is three blocks away. Applebees, Walmart and Target are very close to the development, as well as a veterinarian office. The complex in Grand Island is surrounded by commercial property with a “big box” under contract to develop a strip center adjacent to the development. There is also a manufacturing facility located near, as well as other light industry located near the complex.

Councilperson Coy questioned whether Smith looked at other sites in Norfolk for the project.

Smith could not find any zoned property that is currently available other than one parcel that was cost prohibitive. Smith stated there aren’t any other suitable sites.

Gary Blinn, 1507 Eldorado Road (Norfolk Beverage), spoke against the zoning changes. Blinn has concerns with liability when mixing residential with industrial zoning. Blinn stated “no one wants children on the south side of Hwy 275.” Blinn has concerns with safety issues. Blinn said Norfolk Beverage “was promised, literally, that this would become the cornerstone of light industrial growth” in Norfolk. Blinn stated the integrity and trust of the City are the issue. Blinn requested elected officials follow the Planning Commission’s recommendation and deny the comprehensive plan amendment and rezoning changes.

Medelman stated the property was zoning light industrial when the property was purchased and questioned who promised the property would perpetually stay light industrial.

Blinn doesn’t have anything in writing or a formal agreement but it was during an informal meeting at Prengers with the City Administrator and Cal Allyn.

Randy Dunst, 2814 Golf View Drive, on behalf of Veyance Technologies (formerly Goodyear) spoke in opposition to the rezoning. Dunst asked, “What is the intent of zoning in the City?”

Preventions Manager Scott Cordes stated the question is broad but the intent is basically to protect the health, safety and welfare of the community.

Dunst stated “like properties should be grouped together” and “residential in this area is not compatible.” Dunst stated the major employers in the area are not in favor of the project.

Vern Zwingman, 2116 Highland Drive, spoke in opposition to the rezoning. Zwingman stated industries in the area of the proposed project are opposed to the project.

Fauss stated a City employee commented that the only reason several of the industries are opposing the project is “because you are just friends with Gary Blinn.” Fauss questioned Zwingman as to whether that statement had any substance.

Zwingman stated Nucor is a business that “stands on its own”; however, Blinn has kept the industries informed of the issue. Nucor is “not in the buddy system and stands on its own as opposing this project.”

Councilperson Lange asked for Zwingman’s reaction to the Comparative Distance map distributed. Lange questioned whether there are any ongoing problems with residents about odor in the area.

Zwingman stated odor is probably the biggest, ongoing complaint. It is not ideal to have residents located close to an industry.

Lange commended Nucor Corporation for the extensive paving on their property as well as other improvements to help eliminate dust. Lange stated Nucor is also probably one of the “greenest” companies located in the area.

Ivan Peterson, 825 West Benjamin Avenue, distributed a survey of rental properties throughout the state including LaVista, Papillion, Omaha, Lincoln, Scottsbluff, Bellevue, Grand Island, South Sioux City, Kearney, Columbus, Fremont, Beatrice, North Platte, Norfolk and Hastings as well as a Retail Market Report – 2006 for the City of Lawrence, Kansas. Peterson questioned why Norfolk doesn’t do a retail market study to determine the square feet of vacant space available. Peterson questioned why Norfolk doesn’t know the impact of this type of project on other areas in the community. Peterson stated Norfolk is “over-building” and rental rates are lower than ten years ago. Peterson feels this project will negatively impact Norfolk.

Dick Johnson, 701 Michigan Avenue, spoke in favor of the amendment and rezoning change requests. Johnson explained a fence will surround only a portion of the development and will act as a buffer. Johnson stated “this isn’t an industrial area yet, it is a vacant area.” Johnson addressed several issues and stated proposed trees for the project will add beauty and take away noise; people decide for themselves whether to live by an industry or not; everyone has been professional throughout this process and Johnson doesn’t anticipate any “bad mouthing” by anyone, as suggested by Tomlinson. Johnson also stated “the economy in Norfolk isn’t doing real well right now” and this project is good for the community.

Diane Blinn, 1507 Eldorado Road, spoke in opposition to the amendment and rezoning. Blinn feels the mixed use concept doesn’t include residential by industrial. Blinn has safety concerns with increased pedestrian traffic.

Wilson stated existing industries need to be encouraged to expand and grow in Norfolk and, therefore, trust is a key issue with elected officials. Wilson doesn’t feel elected officials can “turn their back” on 3-4 large companies in Norfolk who oppose the rezoning.

Reeder compared the zoning change request to a missing puzzle piece and that corners aren’t cut off of a piece of the puzzle just to make it fit. Reeder stated the industries thought they were protected by the current zoning and if a promise was made it should be kept.

Van Dyke feels the project is good for Norfolk but also understands the concerns of the industries. Van Dyke will continue to support the amendment and rezoning change requests but also understands the strong arguments against the rezoning.

Lange appreciates the good public input and interest in this project from both industries and the private sector. Lange stated the Comprehensive Plan and rezoning map are guides only and “if promises were made that is wrong.” Lange expects good public input when the Comprehensive Plan is reviewed again, which is done about every ten years. Lange stated Dr. Path (Northeast Community College) spoke at the November 19, 2007 Council meeting of the nursing college project which will bring more people to Norfolk who will need places to stay. Lange said people probably won’t walk to work so an increase in foot traffic probably isn’t a real issue. Lange feels the project appears to be a suitable fit for the area with the commercial zoning as a buffer.

Coy “can’t argue with the project” but the area isn’t the right location.

Brenneman commended the developer for the project but can’t ignore the air, light and noise concerns voiced by representatives of the industries located in the area.

Councilperson Van Dyke introduced Ordinance No. 4985 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE FUTURE LAND USE 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 Reeder seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange and Van Dyke. Nays: Coy, Reeder, Wilson, Brenneman and Fauss. Absent: Saunders. Motion carried. Ordinance No. 4985 failed on first reading.

The Mayor requested consideration of Ordinance No. 4986 for a zoning change from I-1 (Light Industrial District) to R-3 (Multiple Family Residential District) at **25th Street/Pasewalk Avenue and Michigan Avenue**. Ordinance No. 4986 was tabled at the November 19, 2007 City Council meeting.

Councilperson Reeder moved to bring Ordinance No. 4986 from the table, seconded by Councilperson Coy. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman and Fauss. Nays: None. Absent: Saunders. Motion carried.

Councilperson Fauss introduced Ordinance No. 4986 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 Wilson seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Lange and Van Dyke. Nays: Coy, Reeder, Wilson, Brenneman and Fauss. Absent: Saunders. Motion carried. Ordinance No. 4986 failed on first reading.

The Mayor requested consideration of Ordinance No. 4987 for a zoning change from I-1 (Light Industrial District) to C-3 (Service Commercial District) at **25th Street/Pasewalk Avenue and Michigan Avenue**. Ordinance No. 4987 was tabled at the November 19, 2007 City Council meeting.

Councilperson Van Dyke moved to bring Ordinance No. 4987 from the table, seconded by Councilperson Fauss. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman and Fauss. Nays: None. Absent: Saunders. Motion carried.

Paul Medelman requested that no action be taken on Ordinance No. 4987.

No comments were received regarding the Police Division report for October 2007 or the Works-In-Progress report for the period November 14 through 27, 2007. Both reports were included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Wilson to adjourn the meeting at 9:11 p.m. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman and Fauss. Nays: None. Absent: Saunders. 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 3, 2007, had and done by the Mayor and City 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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