

## **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 July, 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, Brenneman, Fauss, and Saunders. Absent: Wilson.

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, Police Chief Bill Mizner and Property/Operations Manager Gary Miller.

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

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

### **SPECIAL PRESENTATION**

The Mayor read in part a Statement of Support for the Guard and Reserve as an employer of members of the Guard and Reserve. The Statement indicates the City of Norfolk joins other employers in pledging that:

1. Employment will not be denied because of service in the Guard or Reserve;
2. Employee job and career opportunities will not be limited or reduced because of service in the Guard or Reserve;
3. Employees will be granted leaves of absence for military service in the Guard or Reserve, consistent with existing laws, without sacrifice of vacation; and
4. This agreement and its resultant policies will be made known throughout our organization.

## CONSENT AGENDA

The City Council approved the minutes of the June 18, 2007 City Council meeting as printed.

The City Council approved the appointment of Larry Wenzl to the Building Code Appeals/Property Maintenance **Board of Appeals** completing the term expiring February 2010 of Fred Otten who resigned from the Board.

The City Council approved and authorized the Mayor to sign a Memorandum of Understanding with Bank First, 100 N 13th Street, Norfolk, allowing the property owner to leave the **water service** line in place on the vacant lot at **1212 Norfolk** Avenue.

The City Council approved a rental agreement with the Northeast Nebraska Shooting Association for use of the City Auditorium for their annual **gun show** on September 7, 8, and 9, 2007. City Code prohibits the display of firearms on City property without the prior approval of the City Council.

The City Council approved the plans, specifications and engineer's estimate on file in the City Clerk's office for the 16th Street, Monroe Avenue to **Affiliated Foods**, project and authorization for the City Clerk to advertise for bids.

The City Council approved award of and authorized the Mayor to sign a contract with Rutjens Construction, Inc., of Tilden, Nebraska for the sewer by scale house at **Wastewater Treatment Plant project** in an amount of \$25,741.63 to furnish all labor, materials, equipment and all else necessary to properly construct the project. Two sealed bids were received at the June 25, 2007 bid letting. The other bidder was Penro Construction Co., Inc., Pender, Nebraska, \$33,147.92.

The City Council approved the reappointment of Marlene Blakeman for another term on the Norfolk **Library** Advisory Board with the term expiring July 2012.

The City Council approved and authorized the Mayor to sign an Interlocal Agreement with the Norfolk Public School District for the provision of a **school resource officer** in the Norfolk Junior High School. In 2003, the City and Norfolk Public School District applied jointly for a Department of Justice COPS grant and, in 2004, were awarded \$125,000 over a three-year period to fund the position. The Interlocal Agreement provides that each the City and School District will fund 50% of the total compensation paid to the school resource officer that is above the amount funded by the grant. The agreement is effective from August 1, 2006 through July 31, 2011.

The City Council approved and authorized the Mayor to sign an agreement with the Nebraska Department of Environmental Quality (NDE Q) to accept a **grant** for \$59,598.00 and to proceed with purchase of a tractor and compost pile turner for the Solid Waste Division. NDEQ is providing 100% of the requested \$59,598. The Street Division and Solid Waste Division are providing \$19,230 in labor and expenses in the preparation of the compost pad.

The City Council approved and authorized the Mayor to sign a letter to the Nebraska Department of Economic Development requesting a CDBG contract budget amendment for the Community Revitalization (**CR**) grant #05-CR-013 to reallocate funds. The budget amendment reallocates

less than 10% but more than \$10,000 of the total original grant amount. The City is requesting to move \$14,000 from Activity #0520 (Acquisition) to Activity #0522 (Clearance/Demo). The clearance and demolition activities cost more than anticipated. The \$14,000 will cover all the charges for the demolition activity.

The City Council approved all bills on file in the amount of \$770,338.10.

## REGULAR AGENDA

A public hearing was held to receive comments on the proposed amendment to the **extraterritorial zoning jurisdiction** map of the City of Norfolk. Prevention Manager Scott Cordes provided information to the Mayor and City Council. The City recently annexed property into the zoning jurisdiction and some portions of the annexation were previously under the jurisdiction of Madison and Stanton counties including developed areas (Nucor Steel and portions of Woodland Park). An amendment to City Code was approved that adjusted zoning classification used by those jurisdictions not recognized by the City of Norfolk. With those clarifications, the zoning map can be amended to include all portions within Norfolk's two-mile jurisdiction. The new extraterritorial zoning jurisdiction map sets the new boundaries for City of Norfolk.

On June 19, 2007, the Norfolk Planning Commission held a public hearing regarding the amendment to the extraterritorial zoning 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 the extraterritorial zoning jurisdiction map amendment and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4954 amending the extraterritorial zoning jurisdiction map of the City of Norfolk.

Councilperson Van Dyke introduced Ordinance No. 4954 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, 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 SOUTH ½ OF THE NORTHEAST ¼, THE SOUTH ½ OF THE NORTHWEST ¼, THE NORTHEAST ¼ OF THE SOUTHWEST ¼, THE NORTH ½ OF THE SOUTHEAST ¼, THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 1; THE SOUTH ½ OF THE NORTHEAST ¼, THE SOUTH ½ OF THE NORTHWEST ¼ OF SECTION 2; THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 3; THE SOUTHWEST ¼ OF THE NORTHEAST ¼, THE SOUTH ½ OF THE NORTHWEST ¼ OF SECTION 4; THE SOUTH ½ OF THE NORTHEAST ¼, THE SOUTH ½ OF THE NORTHWEST ¼ OF SECTION 5; THE NORTH ½ OF THE SOUTHEAST ¼, THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 6 ALL IN TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA. THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 13, TOWNSHIP 24 NORTH, RANGE 2 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA. THE NORTHEAST ¼ OF THE SOUTHEAST ¼, THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ AND THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 1; THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 6; THE NORTHEAST ¼ OF THE NORTHWEST ¼, THE SOUTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 8; THE SOUTHWEST ¼ OF THE SOUTHWEST ¼

OF SECTION 11; THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 12 ALL IN TOWNSHIP 23 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA. THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 6, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE 6TH P.M., STANTON COUNTY, NEBRASKA. THE SOUTH  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$ , THE SOUTHWEST  $\frac{1}{4}$ , THE WEST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 6; THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$ , THE NORTHEAST  $\frac{1}{4}$ , THE EAST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 7; THE NORTHWEST  $\frac{1}{4}$ , THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 17; THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 18; THE EAST  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$ , THE EAST  $\frac{1}{2}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 20; THE WEST  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$ , THE WEST  $\frac{1}{2}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 29; THE EAST  $\frac{1}{2}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 31 ALL IN TOWNSHIP 24 NORTH, RANGE 1 EAST OF THE 6TH P.M., STANTON 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 Lange seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Ordinance No. 4954 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 Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. 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. 4954 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. 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. 4954 as required by law.

The Mayor requested consideration of Ordinance No. 4955 authorizing the sale of abandoned Union Pacific **Railroad right-of-way** property located on the south west corner of 8th Street and Philip Avenue to Michael D. **Maxwell** in the amount of \$1,962.28.

Councilperson Fauss introduced Ordinance No. 4955 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 Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Ordinance No. 4955 passed on first reading.

Councilperson Fauss moved that the statutory rule requiring reading on three different days be suspended. Councilperson Reeder seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. 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 Reeder. The Mayor then stated the question "Shall Ordinance No. 4955 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. 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. 4955 as required by law.

The Mayor requested consideration of Resolution No. 2007-38 providing for closure of the **railroad crossing at Park Avenue**. Resolution No. 2007-38 was tabled at the June 18, 2007 City Council meeting.

Councilperson Fauss moved, seconded by Councilperson Brenneman to bring Resolution No. 2007-38 from the table. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried.

The Mayor requested discussion of Resolution No. 2007-38.

Public Works Director Dennis Smith provided information to the Mayor and City Council. In 2004 Nebraska Central Railroad representatives contacted the City about improving railroad safety by eliminating several crossings. Nebraska Central requested the railroad crossings on North 3rd Street, Philip Avenue and Park Avenue be closed. During the 2006 legislative session, the Legislature amended Section 74-1334 of Nebraska Statutes to require that any public railroad crossing without gates, signals, alarm bells or warning personnel located within ¼ mile from another public railroad crossing with gates, signals or warning personnel be closed. The railroad crossing on Park Avenue meets the statutory criteria required for closure.

Another factor in the request to close the crossings is that the City has been working with Affiliated Foods Midwest to improve business access for continued expansion and the only alternative to accommodate Affiliated Foods interests is to develop an access to the south across the Union Pacific railroad line operated by the Nebraska Central Railroad. The Union Pacific Railroad will allow the opening of a crossing for Affiliated Foods Midwest only if the City of Norfolk closes two other crossings. The North 3rd Street railroad crossing will satisfy the requirement for one closure and the railroad crossing on Park Avenue will satisfy the requirement for the second closure.

On May 29, Mayor Adams, Dennis Smith, Shane Weidner and Michael Nolan met with Clayton Andrews to discuss the closure of either Park Avenue or Philip Avenue. Andrews feels the closure of either the Park Avenue or the Philip Avenue crossings will impact Andrews Van Lines and/or Orphan Grain Train operations. However, Andrews stated that the closure of Park Avenue would be the least disruptive.

Resolution 2007-38 provides for the closing of Park Avenue within the next 60 days. The 60 day timeframe will allow the Street Division to obtain materials and install the appropriate barricading. In consideration of the closure of the crossing on Park Avenue, Nebraska Central Railroad will pay the City of Norfolk \$5,000 after the crossing is closed. The State of Nebraska Department of Roads will pay the City \$5,000 for the crossing closure and also pay the City an amount not to exceed \$12,000 towards the cost of the closure.

City Administrator Mike Nolan provided a Power Point presentation on the proposed railroad crossing closings.

Chad Korth, Nebraska Central Railroad, said all railroad crossings are a liability for railroads. Noise pollution will also be reduced with the closure of several railroad crossings.

Councilperson Coy questioned whether the pedestrian crossings at both Park Avenue and North 3rd Street will be maintained.

Smith said it is preferable to eliminate pedestrian crossings when railroad crossings are closed.

Councilman Fauss moved for adoption of Resolution No. 2007-38 approving the closure of the railroad crossing at Park Avenue, seconded by Councilman Brenneman. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Resolution No. 2007-38 was adopted.

The Mayor requested consideration of Resolution No. 2007-39 providing for closure of the **railroad crossing at North 3rd Street**. Resolution No. 2007-39 was tabled at the June 18, 2007 City Council meeting.

Councilperson Lange moved, seconded by Councilperson Coy to bring Resolution No. 2007-39 from the table. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried.

Resolution No. 2007-39 provides for closure of the railroad crossing on North 3rd Street. Public Works Director Dennis Smith reiterated the same sentiments about the request to close this crossing as the same reasons to close the railroad crossing on Park Avenue.

On September 29, 2006 the Public Works/Public Safety Subcommittee met with representatives of the property immediately adjacent to 3rd Street and the railroad crossing. General consensus at the meeting was that the City move forward with the closure of the North 3rd Street railroad crossing. On December 4, the Mayor and City Council approved a letter agreement with the Nebraska Central Railroad to improve the railroad surfacing material on Benjamin Avenue. In exchange for a 20% contribution toward the improvements on Benjamin Avenue, the City agreed to complete the closure of the North 3rd Street railroad crossing during the second quarter of 2007. Resolution 2007-39 provides for the closure of North 3rd Street within 60 days. The 60 days allows for the Street Division to obtain the materials and to properly.

In consideration of the closure of the crossing on North 3rd Street, Nebraska Central Railroad will pay the City of Norfolk \$5,000 after the crossing is closed. The State of Nebraska Department of Roads will pay the City \$5,000 for the crossing closure and also pay the City an amount not to exceed \$12,000 towards the cost of the closure.

Councilperson Lange moved for adoption of Resolution No. 2007-39 approving closure of the railroad crossing at North 3rd Street, seconded by Councilperson Coy. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Resolution No. 2007-39 was adopted.

Sales and use tax collection for the month of April 2007 was reported as \$509,817.02.

No comments were received regarding the Works-In-Progress report for the period June 13 through 26, 2007. The report was included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Van Dyke to adjourn the meeting at 7:59 p.m. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. 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, July 2, 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

( S E A L )