

## 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 4th day of June, 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, Fauss, and Saunders. Absent: None.

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Finance Officer Randy Gates, Property/Operations Manager Gary Miller, Prevention Manager Scott Cordes, Transportation, Building & Grounds Director Jim Koch 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 Fauss moved, seconded by Councilperson Coy to approve the consent agenda as printed. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

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

### SPECIAL PRESENTATIONS

The Mayor read a proclamation for June 14, 2007 as the U.S. Army's 232nd birthday and proclaimed the week of June 11-17, 2007 as "U.S. Army Week."

### CONSENT AGENDA

The City Council approved the minutes of the May 21, 2007 City Council meeting as printed.

The City Council adopted Resolution No. 2007-36 approving the final plat of **Eldorado Hills** 17th Addition and its accompanying subdivision agreement. Dick Johnson, Johnson Engineering Company, requests this two-lot subdivision located on North 37th Street on behalf of The Berrington Corporation. The subdivision plats a 1.67 acre lot from the main golf course.

The City Council approved the plans, specifications, and engineer's estimate on file in the City Clerk's office for the sewer by the scale house project at the **Wastewater** Treatment Plant and authorized the City Clerk to advertise for bids.

The City Council approved and authorized the Mayor to sign a Grant of Easement to provide construction and maintenance of utilities over and across the north five feet of the south twenty-five feet of Lot 1A, Lot 1B, the west one-half of Lot 2A, Lot 3A, and Lot 3B, and east one-half of Lot 2A and Lot 2B, all in Block 1, **Willow Brook** 4th Addition, being a part of the S ½ of the NE ¼ of Section 18, Township 24 North, Range 1 East of the 6th P.M., Stanton County, Nebraska. Richard Johnson, Johnson Engineering Company, requests this grant of easement on behalf of Cox Development Corporation.

The City Council approved and authorized the Mayor to sign an Addendum to Subrecipient Agreement with **Habitat for Humanity** related to properties purchased with Community Development Block Grant (CDBG) funds through the Community Revitalization grant. The properties purchased are located at 414 Lincoln Avenue, 1503 S 4th Street, and 1510 South 5th Street.

The City Council authorized the Mayor to sign and forward a letter of no recommendation to the Nebraska Liquor Control Commission on the catering application in connection with the Class I liquor license of Norfolk Steak Company, Inc., dba **Whiskey Creek**, 1021 South 13th Street.

The City Council approved and authorized the Mayor to sign an Addendum to Subrecipient Agreement with the **Elkhorn Valley Community Development** Corporation related to properties purchased with Community Development Block Grant (CDBG) funds through the Community Revitalization grant. The properties purchased are located at 1113 South 3rd Street, 1312 South 3rd Street, and 1100 South 1st Street.

The City Council approved award of and authorized the Mayor to sign a contract with Rutjens Construction, Inc. of Tilden, Nebraska for **Meadow Ridge** Phase 4, 1st Addition, Paving, Water Main, Sanitary Sewer, and Electrical project in an amount of \$352,840.16 to furnish all labor, materials, equipment and all else necessary to properly construct the project. Two sealed bids were received at the May 30, 2007 bid letting. The other bidder was Penro Construction Co., Inc., Pender, Nebraska for \$406,210.90.

The City Council approved and authorized the Mayor to sign an NPDES Form CSW-NOI Permit Application for **storm water** discharge associated with the 16th Street Improvements, Monroe Avenue to Affiliated Foods Midwest, project including authorization for the Public Works Director to execute CSW-NOI Permit Applications for future projects on behalf of the City of Norfolk.

The City Council approved and authorized the Mayor to sign an agreement with Norfolk Lodge #46 IOOF for a **parade** on July 4, 2007. The parade route begins at Memorial Field, proceeds north on 1st Street to Madison Avenue, west on Madison Avenue to 5th Street, and then south on 5th Street to Bluff Avenue.

The City Council approved all bills on file in the amount of \$1,025,978.62.

## REGULAR AGENDA

A public hearing was held to consider a zone change from R-3 (Multiple Family Residential District) to O-D (Office District) at **1202 Norfolk** Avenue at the request of George Thomas **Surber** and Mary Susan Surber. Prevention Manager Scott Cordes provided information to the Mayor and City Council.

Specialty Protein Producers LLC (SPPLLC) is seeking to buy this property to use for its corporate office. SPPLLC plans to maintain the building's architectural integrity and list the structure on the National Historical Building Register.

On May 22, 2007 the Norfolk Planning Commission held a public hearing regarding the request. The City Clerk read the Planning Commission's recommendation for approval into the record. The OD (Office District) zoning designation was the best fit for the use of the property.

The Planning Commission considered the zoning change request on May 22, 2007. 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 zoning change and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4947 for a zoning change from R-3 (Multiple Family Residential District) to O-D (Office District) at 1202 Norfolk Avenue at the request of George Thomas Surber and Mary Susan Surber.

Councilperson Van Dyke introduced Ordinance No. 4947 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 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, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4947 passed on first reading.

Councilperson Brenneman moved that the statutory rule requiring reading on three different days be suspended. Councilperson Saunders seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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 Brenneman 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. 4947 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4947 as required by law.

The Mayor requested consideration of Ordinance No. 4948 enacting Section 18-17 of the City Code to establish rules and regulations for the operation and utilization of Miracle **Skate Park**.

Councilperson Wilson introduced Ordinance No. 4948 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO ENACT SECTION 18-17 OF THE OFFICIAL CITY CODE TO ESTABLISH RULES AND REGULATIONS FOR THE OPERATION AND UTILIZATION OF

MIRACLE SKATE PARK; 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 Fauss seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

City Attorney Clint Schukei explained Ordinance No. 4948 establishes rules and regulations for the operation and utilization of Miracle Skate Park. The rules reflect what was approved with the adoption of Resolution No. 2007-34 on May 21, 2007. However, skate park users are not complying with the rules, especially the helmet requirement. Therefore, approval of the ordinance will make it clear that the police have authority to enforce noncompliance with the skate park rules and have clear authority to issue tickets. Schukei stated Parks Division staff might also decide to close the skate park if compliance with the rules and regulations is ignored.

Mayor Adams stated there has been disappointing compliance with the rules, especially the helmet use. The rules need to be followed for personal safety as well as insurance implications. Adams stated skate park users may dislike using helmets but would probably dislike closure of the skate park even less.

Councilperson Brenneman stated the City needs an enforcement mechanism for noncompliance with skate park rules. Brenneman stated the rules must be adhered to for the skate park to remain open.

Councilperson Wilson stated it is unfortunate the skate park users aren't complying with the rules but the Council needs to pass the ordinance to be able to enforce the rules. Wilson said most skate park users know about the rules but are choosing not to follow them.

Roll call on Ordinance No. 4948: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4948 passed on first reading.

Councilperson Lange moved that the statutory rule requiring reading on three different days be suspended. Councilperson Saunders seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4948 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4948 as required by law.

The Mayor requested consideration of Ordinance No. 4949 extending the term of **CableOne**, Inc.'s franchise for a period of five years beyond its current expiration date.

Councilperson Lange introduced Ordinance No. 4949 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO EXTEND THE TERM OF CABLE ONE, INC.'S FRANCHISE FOR A

PERIOD OF FIVE (5) YEARS BEYOND ITS CURRENT EXPIRATION DATE; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THIS PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Councilperson Van Dyke seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Finance Officer Randy Gates explained the ordinance extends the term of CableOne, Inc.'s franchise for five years beyond its current expiration date. Section 21D of the City's Cable TV ordinance provides for a review of CableOne's performance during the preceding five-year period. The ordinance provides four criteria for the review, as follows: (1) has the grantee substantially complied with franchise terms and applicable law; (2) the quality of cable service; (3) the grantee's financial, legal and technical ability to operate the system; and (4) the grantee's plans for future operations. The City of Norfolk conducted this review in conjunction with the other CableOne communities which are: Battle Creek, Madison, Norfolk, Pierce, Randolph, Tilden, West Point, Wisner, Beemer, Pilger, Hadar and Hoskins. This Cable TV Franchise Review Committee and Norfolk staff concluded that CableOne's performance in the four areas was satisfactory and recommends extension of the franchise for five years.

Roll call on Ordinance No. 4949: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4949 passed on first reading.

Councilperson Lange moved that the statutory rule requiring reading on three different days be suspended. Councilperson Saunders seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4949 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4949 as required by law.

The Mayor requested consideration of Ordinance No. 4950 vacating Lots 4 and 5, Block 2, N.E.A.D. 3rd Addition and Lots 1 and 2 of **N.E.A.D.** 5th Addition to the City of Norfolk. The vacation is necessary to plat new lots on the parcel.

Councilperson Van Dyke introduced Ordinance No. 4950 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO VACATE A PORTION OF THE PLAT OF N.E.A.D. 3RD ADDITION AND N.E.A.D. 5TH ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA, BEING A PART OF THE NW ¼ OF SECTION 28, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Councilperson Fauss 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, Wilson, Brenneman,

Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4950 passed on first reading.

Councilperson Van Dyke moved that the statutory rule requiring reading on three different days be suspended. Councilperson Brenneman seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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 Brenneman. The Mayor then stated the question "Shall Ordinance No. 4950 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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. 4950 as required by law.

The Mayor requested consideration of Resolution No. 2007-37 approving the final plat of **N.E.A.D.** 6th Addition and its accompanying subdivision agreement at the request of Paul Medelman. This is an eight-lot subdivision and replats portions of N.E.A.D. 3rd and 5th Additions located on Taylor Avenue.

Councilperson Fauss moved for adoption of Resolution No. 2007-37 approving the final plat of **N.E.A.D.** 6th Addition and authorizing the Mayor to sign the accompanying subdivision agreement, seconded by Councilperson Wilson. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Resolution No. 2007-37 was adopted.

The Mayor requested consideration of a **Mediation Agreement** with the Norfolk Area **Chamber** of Commerce.

Councilperson Brenneman moved, seconded by Councilperson Saunders to approve and authorize the Mayor to sign a Mediation Agreement with the Norfolk Area Chamber of Commerce.

The agreement sets protocols the Chamber and City agree to follow for resolving any future disagreements that may occur between Chamber and City representatives regarding economic development and other issues.

Fred Schellpeper, Chair-Elect of the Chamber of Commerce, stated the Mediation Agreement is the framework for both organizations to work together. The agreement provides structure and a means to move forward with everyone's best interest in mind.

Councilperson Fauss feels the Mediation Agreement should be easy to follow and spells out a guide for the organizations to work together.

Roll call on the Mediation Agreement: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

The Mayor requested consideration of approval of a Letter Agreement between Olsson Associates and the City for the Norfolk Corridor Study **Landscape** Improvements project for an amount not to exceed of \$60,000.

Councilperson Van Dyke moved, seconded by Councilperson Lange to approve and authorize the Mayor to sign a Letter Agreement between Olsson Associates and the City for the Norfolk Corridor Study Landscape Improvements project for an amount not to exceed of \$60,000.

Councilperson Brenneman is in favor of improving the aesthetics of the City but would be more comfortable if competitive proposals had been obtained for the project.

Councilperson Reeder feels the City needs a landscape plan but questioned how the \$60,000 was decided. Reeder stated Olsson Associates does a good job, however, a bid process should have been used for the project.

Public Works Director Dennis Smith stated this contract is for professional services. The City would have used a request for proposals on qualifications and not a bid process. Once a firm is selected, then staff negotiates a contract for the scope of services. Smith stated this project has been discussed for over one year now and the fees and scope of services were negotiated in the summer of 2006. Smith stated the City typically doesn't bid out for professional service contracts. Most recently, the City worked with KMA for the sewer/water extension for the SPPLLC (soy) project. Smith explained the City has a good working relationship with Olsson Associates and the company does a good job on landscape projects. Olsson Associates has been involved with all three roundabouts in Norfolk.

City Administrator Mike Nolan said the City knows what to expect from Olsson Associates. Nolan feels the cost is a fair price for the scope of services provided:

- \* The result is a 15-20 year planning document that the City can use for annual budgeting with specific project estimates that are calculable to present value;
- \* The plan will recommend the best site-specific combination of trees, plants, inert materials and other infrastructure throughout the proposed project areas;
- \* The document will provide coordinated planning on corridors coming into Norfolk;
- \* It will also include interior corridors: 4th Street and Riverside Boulevard; and
- \* The plan will be a tool the City uses with the Nebraska Department of Roads to assure that medians are not concrete or asphalt.

Nolan explained Olsson Associates has extensive experience in applying and obtaining grant funding for projects. Nolan stated Olsson Associates would now be at a disadvantage if the project was sent out for bids and that would also cause a delay of 60-90 days.

Councilperson Coy feels Olsson Associates has a great plan for the landscape study. Coy now has a better understanding of the value of a professional services contract and is excited to get going on the project.

Councilperson Lange stated the contract is a bargain for the hours and service involved in the study.

Councilperson Fauss is in favor of the study and feels it is a good idea. However, Fauss still has concerns with and mentioned the Benjamin Avenue project/North 27th Street project had glitches.

Smith stated almost every project has glitches. Olsson Associates wasn't at fault for the problem with the Benjamin Avenue project, the subcontractor didn't complete the job.

Roll call on the Letter Agreement with Olsson Associates: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

Sales and use tax collection was reported as \$449,113.57 for the month of February, 2007 and as \$564,291.19 for the month of March, 2007.

No comments were received regarding the Works-In- Progress report for the period May 16 through 29, 2007. The report was included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Reeder to adjourn the meeting at 8:23 p.m. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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, June 4, 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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