

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 18th 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, Prevention Manager Scott Cordes, Fire Chief Shane Weidner, 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 Lange moved, seconded by Councilperson Van Dyke to remove Item G-8, consideration of approval of the plans, specifications and engineer's estimate for Paving District No. 498 and authorization to advertise for bids, from the consent agenda and approve the consent agenda as amended. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

Councilperson Brenneman moved, seconded by Councilperson Fauss to adopt the regular agenda with the addition of Item G-8, consideration of approval of the plans, specifications and engineer's estimate for Paving District No. 498 and authorization to advertise for bids. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

CONSENT AGENDA

The City Council approved the minutes of the June 4, 2007, City Council meeting as printed.

The City Council approved the Corporate Manager Application of Harry Lampert in connection with the Class I liquor license of Central Nebraska Pizza Hut, Inc., dba **Pizza Hut**-Norfolk 2, 910 West Benjamin Avenue

The City Council approved a Special Designated Liquor License for **Sacred Heart Church** to sell beer at 2301 West Madison Avenue on Saturday, August 18, 2007, during volleyball tournaments and for a dance held in conjunction with the annual parish festival.

The City Council approved and authorized the Mayor to sign a **Dedication** of street right-of-way for **Eisenhower Avenue** from the Greater Norfolk Economic Development Foundation, Inc. This portion of Eisenhower venue is located west of Victory Road to the Union Pacific Railroad right-of-way.

The City Council approved and authorized the Mayor to sign a **Dedication** of street right-of-way for **Victory Road** from the Greater Norfolk Economic Development Foundation, Inc. This portion of Victory Road is the west half of the half mile immediately south of Eisenhower Avenue.

The City Council approved and authorized the Mayor to sign a **Dedication** of street right-of-way for the North-South Street adjacent to the **SPPLLC** (the soy project) property from Greater Norfolk Economic Development Foundation, Inc. This portion of street is a half-mile long located immediately south of Eisenhower Avenue and west of Victory Road and east of the Union Pacific Railroad right-of-way.

The City Council approved a Special Designated Liquor License for Norfolk Steak Co., dba **Whiskey Creek Steakhouse**, to sell beer, wine and distilled spirits at 2301 West Madison Avenue, on Saturday, July 14, 2007, at a wedding reception.

The City Council approved the 2007-2012 **Capital Improvement Program** (CIP) for the City of Norfolk.

The City Council approved all bills on file in the amount of \$1,067,955.73.

REGULAR AGENDA

A public hearing was held to receive comments regarding the Community Development Block Grant (CDBG) project #04-ED-031 (MP Global). Tina Engelbart, NENEDD, provided information to the Mayor and City Council. CDBG guidelines require two public hearings for each project, one at the beginning of a project and one at the end of the project. MP Global was a two year contract which began on June 21, 2005 and ends June 21, 2007. The CDBG award was for \$505,000 of which \$500,000 was utilized to assist Midwest Global Products, LLC, with the purchase of machinery and equipment and \$5,000 was for general administration of the grant. CDBG funds were combined with owner equity and private financing for a total project of \$1,352,400. The grant required the business create at least 35 jobs of which at least 51% of the jobs were made available to low-to-moderate income individuals. Engelbart stated MP Global actually created 41 jobs. The jobs must be maintained for 36 months.

No one appeared either in favor of or in opposition to CDBG #04-ED-031 to MP Global and the Mayor declared the hearing closed.

A public hearing was held to receive comments regarding the Nebraska Affordable Housing **Trust Funds** grant received by the City of Norfolk for rehabilitation of homes. Brenda

Anderson, NENEDD, provided information to the Mayor and City Council. Anderson stated health and safety issues are looked at first when evaluating rehab projects. There are two types of grants available: one is a 50/50 grant wherein the homeowner must repay 50% and the other is 90/10 wherein the homeowner must repay 10% of the grant. The type of grant is determined based on the number of people living in the household, as well as income. The City received a grant in the amount of \$196,500 from the Nebraska Affordable Housing Trust Funds of which \$160,000 was used for housing rehabilitation, \$24,700 for housing management and \$11,800 for general administration of the grant. Eight low-to-moderate income single family units were rehabilitated with the grant funds.

No one appeared either in favor of or in opposition to the Nebraska Affordable Housing Trust Funds grant and the Mayor declared the hearing closed.

A public hearing was held to consider amending Section 27-7 of City Code providing for the zoning classification of land coming within the **zoning jurisdiction** of the City. Prevention Manager Scott Cordes provided information to the Mayor and City Council. The City of Norfolk recently annexed property into the zoning jurisdiction. Portions of the property were previously under the jurisdiction of Madison County and Stanton County that have different zoning classifications. This amendment adjusts those classifications to comply with the City of Norfolk's classifications. Cordes feels this is a better way to manage zoning and minimize the zoning change application process. Cordes stated the Prevention Bureau assists applicants if a zoning issue arises and the classification needs to be changed.

The Norfolk Planning Commission held a public hearing on June 5, 2007 to consider the amendment. 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 amending Section 27-7 of City Code and the Mayor declared the hearing closed.

The Mayor requested consideration of Ordinance No. 4951 amending Section 27-7 of City Code to provide for the zoning classification of land coming within the zoning jurisdiction of the City.

Councilperson Brenneman introduced Ordinance No. 4951 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 27-7 OF THE OFFICIAL CITY CODE TO PROVIDE FOR THE ZONING CLASSIFICATION OF LAND COMING WITHIN THE ZONING JURISDICTION OF THE CITY; 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. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4951 passed on first reading.

Councilperson Fauss moved that the statutory rule requiring reading on three different days be suspended. Councilperson Lange 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 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 Lange. The Mayor then stated the question "Shall Ordinance No. 4951 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. 4951 as required by law.

The Mayor requested consideration of Ordinance No. 4952 amending Section 24-287 of City Code to clarify that all terrain vehicles and other **motorized vehicles** are precluded from being operated on city-owned property.

Councilperson Van Dyke introduced Ordinance No. 4952 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-287 OF THE OFFICIAL CITY CODE TO CLARIFY THAT MOTORIZED VEHICLES ARE PRECLUDED FROM BEING OPERATED ON CITY OWNED PROPERTY UNLESS EXPRESSLY AUTHORIZED; 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.

City Attorney Clint Schukei explained this ordinance is necessary to clarify that, although paths and trails have been constructed on the flood control levee, motorized vehicles are not authorized for operation on these paths. The ordinance, however, does not apply to city employees in the performance of their duties.

Roll call on Ordinance No. 4952: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4952 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, 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 Fauss. The Mayor then stated the question "Shall Ordinance No. 4952 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. 4952 as required by law.

The Mayor requested consideration of Ordinance No. 4953 creating **Paving District No. 498** to pave Westbrook Drive from approximately 150 feet northeast of Wildwood Street northeasterly approximately 1,102 feet. This property is located east of Victory Road in the East Knolls Addition.

Councilperson Saunders introduced Ordinance No. 4953 entitled: AN ORDINANCE CREATING PAVING DISTRICT NO. 498 IN THE CITY OF NORFOLK, NEBRASKA, ORDERING THE CONSTRUCTION OF STREET IMPROVEMENTS THEREIN AND ORDERING THE PUBLICATION OF THE 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, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4953 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, 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 Fauss. The Mayor then stated the question "Shall Ordinance No. 4953 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. 4953 as required by law.

The Mayor requested approval of the plans, specifications and engineer's estimate on file in the City Clerk's office for Paving District No. 498 to pave **Westbrook** Drive from approximately 150 feet northeast of Wildwood Street northeasterly approximately 1,102 feet and authorization for the City Clerk to advertise for bids.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to approve the plans, specifications and engineer's estimate on file in the City Clerk's office for Paving District No. 498 to pave Westbrook Drive from approximately 150 feet northeast of Wildwood Street northeasterly approximately 1,102 feet and to authorize the City Clerk to advertise for bids. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

The Mayor requested consideration of Resolution No. 2007-38 providing for closure of the **railroad crossing** at Park Avenue.

Councilperson Brenneman moved to table consideration of Resolution No. 2007-38, seconded by Councilperson Fauss.

Mayor Adams understands that staff would like to have a public discussion on Resolution No. 2007-38 and Resolution No. 2007-39 and a motion to table does not allow discussion.

Councilperson Brenneman withdrew the motion to table and Councilperson Fauss withdrew the second.

Councilperson Van Dyke moved to consider Resolution No. 2007-38 and Resolution No. 2007-39, seconded by Councilperson Fauss.

City Administrator Mike Nolan explained LB 79, approved by the Nebraska Legislature during the 2006 session, amended Section 74-1334 of State Statutes and mandates the closure of railroad crossings without gates, signals, alarm bells or warning personnel located within ¼ mile from another public railroad crossing with gates, signals or warning personnel. The cost to upgrade each railroad crossing is approximately \$250,000. Railroad crossings without lights and barriers are a risk management problem for the railroad as well as the City of Norfolk. Nolan stated the City of Norfolk has a multitude of rural railroad crossings from Nucor Steel and the Union Pacific main line which affects Madison County and Platte County as well as other communities the railroad goes through. Nolan stated there are two Railroad Safety Transportation Districts in Nebraska—one in Norfolk and one in Lincoln. The railroad crossings are a tremendous risk management problem for the railroads and for citizens.

City staff and elected officials discussed closure of several railroad crossings in the City. Staff recommends the closure of the railroad crossings at Park Avenue and North 3rd Street. The railroad is owned by Union Pacific and leased by Nebraska Central Railroad. Nebraska Central wants to manage traffic safely with partnerships to allay traffic problems. Nolan explained City staff met with property owners in those areas as well as representatives from the Norfolk Public Schools and discussed closure of the rail crossings.

The City has also worked with Affiliated Foods Midwest to improve business access for continued expansion. The only way to accommodate Affiliated's interests is to develop an access to the south across the Union Pacific railroad line. After much negotiation, the UP will allow the opening of a crossing for Affiliated Foods provided the City closes two other crossings. The Park Avenue and North 3rd Street crossings meet the statutory criteria required for closure. LB 79 makes these closings mandatory not discretionary. City staff feels the crossings at Michigan Avenue and Philip Avenue will stay open. Nolan said no one wants to experience the trauma of someone being killed at a railroad crossing. Nolan stated Madison County representatives have asked that the City of Norfolk to work on a county-wide program to address unsafe railroad crossings.

Public Works Director Dennis Smith stated staff reviewed all railroad crossings in the City, including Omaha Avenue, which is protected with signals, gates and alarm bells. Property owners in the area of Philip Avenue and Park Avenue indicated closure of the Park Avenue railroad crossing would be less disruptive than Philip Avenue.

Chad Korth, Nebraska Central Railroad, explained the safety concerns with railroad crossings that don't have gates, signals and alarm bells. Korth feels it is everyone's responsibility to close the unsafe railroad crossing and the Nebraska Legislature provided a tool to closing these types of crossings.

Councilperson Brenneman is not opposed to closing the railroad crossings and understands the safety concerns. However, Brenneman stated a trucking firm has Park Avenue as the only access road to their property, except for 6th Street which is a one-way street.

Nolan suggested the resolutions be tabled to allow time for citizen input on the proposed railroad crossing closures.

Councilperson Fauss received a phone call from the owner of property located near the North 3rd Street railroad crossing. That person is still opposed to the closure and wants more discussion on the issue.

Councilperson Brenneman moved to table consideration of Resolution No. 2007-38 and Resolution No. 2007-39, seconded by Councilperson Fauss. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Resolution No. 2007-38 and Resolution No. 2007-39 were tabled.

No comments were received regarding the monthly commercial and industrial building permit report for May 2007; Police Division report for April 2007; or the Works-In-Progress report for the period May 30 through June 12, 2007. All the reports were included in the agenda packets.

PUBLIC COMMENT PERIOD

No comments were received during the public comment period.

Councilperson Fauss moved, seconded by Councilperson Van Dyke to adjourn the meeting at 8:15 p.m. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. 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 Monday, June 18, 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.

Elizabeth A. Deck
City Clerk

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