

CITY OF NORFOLK, NEBRASKA

The Council President and City Council of the City of Norfolk met in regular session in the Council Chambers, 309 West Madison Avenue, Norfolk, Nebraska on the 19th day of March, beginning at 7:30 p.m.

Following a moment of silence and the Pledge of Allegiance to the United States of America, and in the absence of Mayor Gordon D. Adams, Council President Jim Brenneman called the meeting to order. Roll call found the following Councilpersons present: Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss, and Saunders. Absent: Mayor Adams.

Staff members present were: Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Finance Officer Randy Gates, Fire Chief Shane Weidner, Prevention Manager Scott Cordes, Police Chief Bill Mizner and Property/Operations Manager Gary Miller.

The Council President presided and the City Clerk recorded the proceedings.

The Council President 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 Dye to amend the consent agenda with the addition of Items F-1, Resolution No. 2007-15, and F-2, Resolution No. 2007-16, from the regular agenda and to 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 Fauss moved, seconded by Councilperson Van Dyke to adopt the regular agenda as printed with Items F-1 and F-2 taken off and placed on the consent agenda. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

SPECIAL PRESENTATIONS

Russ McKillip and Mary Plettner, Nebraska Public Power District (**NPPD**), presented the 2006 Economic Development Award to the City of Norfolk in the category of successful business and industry expansions and attraction – Affiliated Foods Midwest, Inc., Dreyfus Ethanol and the Corporation Gulch Trestle Project.

Council President Brenneman proclaimed the week of March 18-24, 2007 as “National Surveyors Week”.

CONSENT AGENDA

The City Council approved the minutes of the March 5, 2007 City Council meeting as printed.

The City Council adopted Resolution No. 2007-15 stating the City desires to consider the **annexation** of right-of-way along **East Omaha** Avenue (U.S. Highway 275) east from Logan Street to Highway 35 and a tract of land north of U.S. Highway 275, east of Victory Road and west of Highway 35, approving the plan for extending City services to the property and establishing April 2, 2007 as the date for a public hearing to consider the annexation. This area contains 34.21 acres of land owned by OKAR Development LLC, the party requesting the annexation. Also included in the annexation is 5.5 acres owned by the Norfolk Public Schools and located immediately to the north and west of the OKAR property. This is the location of the Montessori School. The only development currently planned for the area is a truck stop on the southwest corner.

The City Council adopted Resolution No. 2007-16 approving submitting a “**Safe Routes to School**” grant application to the Nebraska Department of Roads for both infrastructure and non-infrastructure improvements. The grant funds will be utilized to encourage students attending Bel-Air Elementary School, 1101 N 18th Street, to walk and/or bike to school and to create a safe environment surrounding the immediate school including installation of additional cross walks.

The City Council approved and authorized the Council President to sign an agreement with the Sesostri Shrine Fraternal Organization for the use of Memorial Football Field and the surrounding areas for the annual **circus** on June 2, 2007.

The City Council approved and authorized the Council President to sign an agreement with **Legends Car** Club for the use of Ta-Ha-Zouka Park for the annual **car show** June 2, 2007.

The City Council approved the low bid from Ed M. Feld Equipment Co. for **bunker gear** for the Fire Division for \$18,594.50. Four bids were received at the February 21, 2007 bid letting. The other bidders were: Municipal Emergency Services, Fremont, Nebraska, \$19,268; Fireguard, Omaha, Nebraska, \$19,711.64; and Heiman Fire Equipment, Omaha, Nebraska, \$19,380.87.

The City Council approved award of and authorized the Council President to sign a contract with Rutjens Construction, Inc., of Tilden, Nebraska, for **Sewer Replacement 2007-1** (South 1st Street; Adams Avenue to Monroe Avenue) project for an amount of \$92,831.18 to furnish all labor, materials, equipment and all else necessary to properly construct all the improvements. Four sealed bids were received at the March 8, 2007 bid letting. The other bidders were: Nelson Construction of Lyons, Nebraska, \$99,211.32; Robert Woehler & Sons of Wayne, Nebraska, \$114,154.00; and Penro Construction, Pender, Nebraska, \$104,333.69.

The City Council adopted Resolution No. 2007-15 stating the City’s desire to consider annexing right-of-way along East Omaha Avenue (U.S. Highway 275) east from Logan Street to Highway 35 and a tract of land north of U.S. Highway 75, east of Victory Road and west of Highway 35,

approving the plan for extending City services to said land and establishing April 2, 2007 as the date for a public hearing to consider the annexation.

The City Council adopted Resolution No. 2007-16 for the Safe Routes to School grant for both infrastructure and non-infrastructure improvements at Bel-Air Elementary School at 1101 North 18th Street.

The City Council approved all bills in the amount of \$768,874.16.

REGULAR AGENDA

A public hearing was held to consider a zoning change from C-3 (Service Commercial District) to R-3 (Multiple Family Residential District) at 303 and 305 North **32nd Street** at the request of MBH Development, LLC. Prevention Manager Scott Cordes provided information to the Council President and City Council. MBH Development is seeking the zoning change to allow construction of a triplex and a duplex. Similar buildings are located to the west of the property and the request moves an existing boundary between the residential and commercial areas. The request complies with the Comprehensive Plan that reflects high density residential/mixed use.

On March 6, 2007, the Norfolk Planning Commission held a public hearing regarding the request from MBH Development, LLC. 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 Council President Brenneman closed the public hearing.

Council President Brenneman requested consideration of Ordinance No. 4930 for a zoning change from C-3 (Service Commercial District) to R-3 (Multiple Family Residential District) at 303 and 305 North 32nd Street at the request of MBH Development, LLC.

Councilperson Van Dyke introduced Ordinance No. 4930 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 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. 4930 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 Council President then stated the question "Shall Ordinance No. 4930 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 Council President signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Council President then instructed the City Clerk to publish said Ordinance No. 4930 as required by law.

A public hearing was held to consider a zoning change from R-1 (Single Family Residential District) to R-2 (One and Two Family Residential District) in the 1700 block of **North 37th** Street at the request of The Berrington Corporation. Council President Brenneman requested persons speaking during the hearing limit testimony to five minutes and to avoid redundancy.

Prevention Manager Scott Cordes provided information to the Council President and City Council. The Berrington Corporation wants to construct three duplexes on this property which is currently owned by Eldorado Hills Golf Course. The area is overgrown with trees and contains a storage shed. Many neighbors voiced opposition to the zoning change request at the Planning Commission hearing. The neighbors claim the zoning change will reduce the value of adjacent properties. The Planning Commission voted to deny the zoning change request on a 3-4 vote.

Dick Johnson, Johnson Engineering, spoke on behalf of the owners and developers of the property. Johnson was "caught off guard" by the opposition to this zoning change request. The proposed development is for construction of three townhouses for a total of six units. Johnson said other proponents available to discuss the issue with the Council are Rick Waddington, President of Berrington Corporation; Bob Hupp, developer; Terry Wolfe, builder; Bill Waddington, Omaha appraiser; Mark Newberry, owner of Eldorado Golf Course, as well as neighbors speaking in favor of the rezoning. Johnson stated the property owners want to clean up the area which is an old maintenance yard and construct nice, high-value townhouses on the property. Johnson stated neighbors raised three objections at the Planning Commission meeting: (1) the rezoning would devalue properties in the area, (2) spot zoning and (3) don't want townhouses in the area. Johnson referred to a letter from Dave Sovereign, Hales & Associates. Sovereign referenced similar townhouses located on 30th Street and stated the proposed townhomes "shouldn't have a negative impact on any other real estate uses in the immediate area." Sovereign also feels "this configuration would be one of the better highest and best uses of the site." Johnson said the developers want to keep as many trees on the property as possible. Johnson doesn't feel the rezoning is spot zoning. The request will not change the area since it will continue to be a residential area. With regard to building town homes on the property, Johnson feels neighbors shouldn't get to decide how another property owner develops their property. Johnson requested the right to rebut any statements made during the hearing.

Councilperson Wilson questioned the valuation of the townhouses on North 30th Street.

Johnson stated the proposed townhouses on this property will have a value of around \$300,000 per unit or \$600,000 per structure and the structures on North 30th Street are valued about the same.

Bob Hupp, 900 North 37th Street, spoke in favor of the rezoning. Hupp reviewed drawings of the proposed development and pictures of the current site. Hupp started the Eldorado Hills

development in 1986 and one of the concepts was for a Planned Unit Development (PUD) to accommodate single family homes from \$100,000 to \$500,000 or more. The plan also accommodates town homes to “peacefully coexist” among the single family homes. Town homes are located throughout the Eldorado Hills development. The developers want to upgrade the proposed area and each unit of the town homes may be valued up to \$350,000.

Councilperson Fauss received many calls from neighbors in the area. The neighbors want single family homes constructed on the property and not town homes. Fauss stated a neighbor questioned what will happen to the shed that is currently located on the property.

Hupp stated the shed will be torn down or moved to the maintenance area on the golf course.

Mark Mooberry, 1637 Hackberry Drive, spoke in favor of the rezoning. Mooberry is not in the housing management business but Bob Hupp suggested the development for the property, and Mooberry felt it was a win/win situation. Mooberry feels the town homes will be more attractive to the golf course than the current site and that any money received from the sale of the property would be used to enhance the maintenance operation located on the south side of Benjamin Avenue.

Tom Delay, 1608 Eldorado Road, lives directly across from the proposed project and spoke in favor of the rezoning. Delay stated the development will add 1.8 million dollars to the tax roles. Delay feels the establishment of duplexes on the property “is not spot zoning and never has been.” Delay said the Comprehensive Plan doesn’t need to be changed for the proposed rezoning.

Prevention Manager Scott Cordes stated Marty Shukert, RDG Crose Gardner Shukert, prepared the most recent (August 2001) version of the Comprehensive Development Plan for Norfolk, Nebraska. Shukert’s view of the application of the Comprehensive Plan and its relationship to zoning is clearly explained in the document. Shukert’s concept is “incidental changes to zoning that don’t change the overall make up of that neighborhood and don’t change the predominant land use in that neighborhood, don’t constitute a mandatory change to the Comprehensive Plan every time.” If the land mass becomes large enough or, for example, if the migration would go from an R-1 to an industrial or commercial use, it would warrant a Comprehensive Plan change every time. The City has consistently adhered to that concept.

Delay referred to a case in Omaha regarding spot zoning. In that case, the City of Omaha found there wasn’t any spot zoning and passed the zoning change to allow a WalMart store and 300 apartments constructed within a residential area. The Supreme Court found the Council’s actions weren’t arbitrary or capricious. Delay urged the Council to allow the rezoning which will benefit the City of Norfolk.

Eric Waddington, President of Berrington Corporation, purchased Eldorado Hills golf course in August 1998. Waddington feels the rezoning will clean up the area and the town homes will be a nice addition to the area. As owners of the golf course, Waddington wants the property developed correctly and stated many of the trees will be kept on the site. Waddington would like to contain the maintenance of the golf course in one place and clean up the area. This would also eliminate illegal dumping on the property. Waddington stated a new 30x40 maintenance shop will be constructed on the south side of the golf course with funds received from the sale of the property. Waddington requested approval of the zoning change.

Terry Wolfe, 1511 North 30th Street, spoke in favor of the rezoning. Wolfe distributed copies of the proposed floor plans for the townhouses. Wolfe has been a contractor in the City of Norfolk for over 22 years and has built 40 homes on the golf course. Wolfe requested approval of the zoning change.

Bill Waddington, 11816 Bauman Avenue, Omaha, Nebraska, is a licensed real estate appraiser and was asked to speak on golf course developments in Omaha. Waddington stated every golf course in Omaha includes townhouse development and each of the courses range from mid-high to high end golf courses. The town homes are not detracting from the developments and are not devaluing houses because homes continue to be built and sold.

Tom Tomlinson, 3416 Golf View Drive, spoke in opposition to the rezoning. Tomlinson was a city planner in California for over 30 years. Tomlinson feels the authority for zoning comes from the Comprehensive Plan and the land use for the property shows as a golf course—not R-1 or R-2. Tomlinson feels the rezoning request is inconsistent with the City’s Comprehensive Plan and the property owners are only looking to a financial gain with the rezoning request. Tomlinson said R-1 zoning will allow three single family homes on the property.

Jeff White, 3609 Golf View Drive, is opposed to the rezoning. White is a licensed real estate appraiser in Norfolk. White stated over 90% of the property owners within the 300 foot radius of the property voiced opposition at the Norfolk Planning Commission meeting. The Planning Commission denied the rezoning request. White feels the rezoning will have a negative impact on property values in the area. As an appraiser, White concludes that homes located adjacent to or near duplexes or townhouses are negatively impacted because of the location. White stated the property owners will only be maximizing profits by rezoning the property for townhouses. White stated the townhouses will impact “the total market value out there.” White stated houses located north of Benjamin in Eldorado Hills sell must faster than houses in the area located south of Benjamin Avenue with townhouses located in the area. White pointed out that, as a real estate instructor at Northeast Community College, spot zoning is defined as “changing zoning on a piece of property to benefit one person to make a profit.” White requested the Council deny the zoning change request.

Councilperson Coy questioned whether the age of a structure impacts the value of a house. Coy stated most of the houses on the north side of Eldorado were built in the last 5-10 years and most of those on the south side were built in the last 20 years.

White stated the age of a house “absolutely” impacts the value of a house.

Van Dyke said the property in question is over 75,000 square feet and should accommodate up to six homes.

White doesn’t feel the property has room for more than three homes because of required frontage.

Jack Gatz, 1619 North 37th Street, spoke in opposition to the rezoning. Gatz lives directly west of the proposed rezoning area. Gatz stated the property owners and developers should “carry the burden” to establish, in good faith, that they have a right or need to change the zoning. The

surrounding property owners “don’t need to prove anything.” Gatz said none of the proponents mentioned constructing single family houses on the property. The property owners can “do with the property what they want to do subject to the zoning requirements.” Gatz does not want duplexes constructed on the property. Gatz believes zoning has two purposes: (1) to benefit the entire community to maintain order and uniformity in the growth of the City as it expands, and (2) as a directive for the benefit of the public to know what is going on for real estate purposes. Gatz is opposed to spot zoning and requested the Council not allow the rezoning.

Al Rajae spoke in opposition to the rezoning. Rajae feels the proper use for the property is R-1. Rajae purchased two lots in the area and built a house but only after making sure all of the property in the surrounding area was zoned R-1. Rajae isn’t against development but doesn’t “want to move again.”

Jon Widner, 3605 Golf View Drive, spoke in opposition to the rezoning. Widner purchased a house in the area because of the single family zoning. Widner requested the City Council deny the rezoning.

Dick Johnson provided a brief rebuttal. Johnson stated Tomlinson’s comments are bothersome. The City of Norfolk has changed zoning on small parcels for years without changing the Comprehensive Plan where the use is not changed. Johnson does not consider R-1 and R-2 to be different uses. Johnson referred to White’s comment on spot zoning. Johnson requested City Attorney Clint Schukei read the Norfolk City Code definition of spot zoning into the record.

City Attorney Clint Schukei read the definition of spot zoning from Chapter 27 of City Code: “Spot zoning shall mean an arbitrary zoning or rezoning of a small tract of land, usually surrounded by other uses or zoning categories that are of a markedly or substantially different intensity, that is not consistent with the comprehensive land use plan and that primarily promotes the private interest of the owner rather than the general welfare.”

Johnson stated spot zoning is not an issue with this request.

Bob Hupp stated the proposed development is not multi-family. The units are “R-1’s with a common wall.” Hupp stated several of the homes on the south side of Eldorado have recently sold and the reason houses may not sell as fast on the south side is because they get hit by golf balls.

On March 6, 2007, the Norfolk Planning Commission held a public hearing regarding the request from The Berrington Corporation. The City Clerk read the Planning Commission’s 3-4 vote of denial into the record.

No one else appeared either in favor of or in opposition to the zoning change and the Council President Brenneman declared the hearing closed.

Council President Brenneman explained a protest was filed against the rezoning and, therefore, according to State Statute Section 19-905, “such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body of such municipality.”

Council President Brenneman requested consideration of Ordinance No. 4931 for a zoning change from R-1 (Single Family Residential District) to R-2 (One and Two Family Residential District) in the 1700 block of North 37th Street at the request of The Berrington Corporation.

Councilperson Van Dyke introduced Ordinance No. 4931 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 Coy seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Roll call on Ordinance No. 4931: Ayes: Councilpersons Coy, Lange, Van Dyke, Brenneman, and Saunders. Nays: Reeder, Wilson and Fauss. Absent: None. Motion failed. Ordinance No. 4931 failed on first reading.

A public hearing was held to consider the annexation of property located generally east of Walters' East Knolls Fifth Addition. Public Works Director Dennis Smith provided information to the Council President and City Council. The annexation is requested by Dick Johnson, Johnson Engineering, on behalf of the developer (Wayne Walters) and is a continuation of the development in that area.

No one appeared either in favor of or in opposition to the annexation and Council President Brenneman closed the public hearing.

Council President Brenneman requested consideration of Ordinance No. 4933 **annexing** land located generally east of **Walters'** East Knolls Fifth Addition.

Councilperson Saunders introduced Ordinance No. 4933 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO ANNEX TO SAID CITY A PART OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ AND THE SOUTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 24, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH PRINCIPAL MERIDIAN, MADISON COUNTY, NEBRASKA. REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED 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 Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4933 passed on first reading only.

Council President Brenneman requested consideration of Ordinance No. 4929 amending Section 14-168 of City Code to modify the penalty section for the offense of **failure to appear**.

Councilperson Wilson introduced Ordinance No. 4929 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 14-168 OF THE OFFICIAL CITY CODE REGARDING FAILURE TO APPEAR; TO MODIFY THE PENALTY SECTION FOR THE OFFENSE; AND TO PROVIDE 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.

City Attorney Clint Schukei explained the amendment will provide a penalty that is commensurate with the penalty for the original offense charged to a person.

Roll call on Ordinance No. 4929: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4929 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 Council President then stated the question "Shall Ordinance No. 4929 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 Council President signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Council President then instructed the City Clerk to publish said Ordinance No. 4929 as required by law.

Council President Brenneman requested consideration of Ordinance No. 4932 amending Section 24-164 of City Code to **restrict parking** on the south side of **Indiana** Avenue between 1st Street and 2nd Street, and to amend Section 24-165(e) & (h) of City Code to allow parking on both sides of 2nd Street between Indiana Avenue and Omaha Avenue. Bob Hastings, Principal of Washington Elementary School, requests these changes to facilitate student drop-off and pick-up and employee parking while the school is being renovated.

Councilperson Saunders introduced Ordinance No. 4932 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-164 OF THE OFFICIAL CITY CODE TO PROHIBIT PARKING ON THE SOUTH SIDE OF INDIANA AVENUE BETWEEN 1ST STREET AND 2ND STREET; TO AMEND SECTION 24-165 OF THE OFFICIAL CITY CODE TO REMOVE THE PARKING RESTRICTIONS ON 2ND STREET BETWEEN INDIANA AVENUE AND OMAHA AVENUE; 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 Van Dyke 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. 4932 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, 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 Reeder. The Council President then stated the question "Shall Ordinance No. 4932 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 Council President signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Council President then instructed the City Clerk to publish said Ordinance No. 4932 as required by law.

No comments were received regarding the monthly commercial and industrial building permit report for February 2007; the Police Division report for January 2007; or the Works-In-Progress report for the period February 28 through March 13, 2007. The reports were included in the agenda packet.

Police Chief Bill Mizner provided information on the annual Police Division report for 2006.

PUBLIC COMMENT PERIOD

Don Wisnieski, 56022 Hwy 275, spoke about the requirement for Big Bang Boom to provide the City with a \$5 million certificate of insurance. Wisnieski said the increased insurance limits will have a negative affect on all events held in Norfolk, including the Christian Cross Festival, parades, soccer events and weddings/gatherings at TaHaZouka Park. Wisnieski stated Big Bang Boom will probably "drop the event for 2007" until the event organizers can "find a new location" for the celebration. Wisnieski feels the July 4th celebration has "a real economic impact" on Norfolk and requested the general public direct comments to the Mayor and City Council regarding the event.

Councilperson Lange explained the Legislature is forcing municipalities in Nebraska to raise insurance limits for activities and/or close recreational areas based on a recent Supreme Court decision. Lange stated the Supreme Court decision created significant risk for municipalities.

Wisnieski stated the fireworks supplier carries a \$6 million insurance policy with \$7 million for fireworks displays. Besides that, all vendors during the July 4th celebration carry \$1 million of coverage with a \$2 million aggregate. Wisnieski stated two years ago a woman sprained an ankle at the July 4th celebration; otherwise, very few accidents have taken place during the event. Wisnieski stated Big Bang Boom is an all volunteer group and the additional insurance requirement will add \$5,000 to the cost.

Councilperson Coy spoke with Senator Mike Flood who is confident that a "solution will be found by the end of the (Legislative) session". Coy stated elected officials need to protect the City and citizens from a risk management standpoint which covers a lot more than just the July 4th celebration. Coy said, for example, all parks may need to be closed.

Wisnieski requested information from subcommittee meetings regarding the Recreational Liability Act. Wisnieski is aware of the Supreme Court decision but said “no law is in place that required cities to enforce an insurance policy.”

Councilperson Fauss has been “bombarded by recreation teams” trying to find ways to provide insurance coverage for their events. Fauss said “this is a tough situation.”

Scott Adams, 1305 West Park, spoke on behalf of the Ethnic Festival and said the event is not possible with the added insurance coverage limits required by the City.

Marilyn Alexander, 2408 West Norfolk Avenue, had the following comments: (1) the City should be more proactive and not reactive; (2) City employees should be utilized to help enforce litter control and cleanliness in the City; (3) the City needs more Christmas lights at various locations, not just in Downtown Norfolk; (4) Downtown Norfolk store owners should cooperate and set a standard on hours of operation; (5) the City should publish when committee meetings are held; (6) zoning issues need to be addressed more thoroughly; and (7) Norfolk needs more police officers.

Steve Vincent, 804 South 8th Street, said the City “shut off” Mom’s Classic hot dogs stand because of the increased insurance requirements.

Jim Marr, 603 North 63rd Street, said the Norfolk Lions Club will probably not be holding the annual July 4th parade because the City is requesting additional insurance coverage. Marr said the insurance costs approximately \$1,000 per \$1 million of coverage.

No one else spoke during the public comment period.

Councilperson Fauss moved, seconded by Councilperson Van Dyke to adjourn the meeting at 9:55 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, March 19, 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

(S E A L)