

## 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 19th day of November, 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, Transportation, Building & Grounds Director Jim Koch, Fire Chief Shane Weidner and Police Chief Bill Mizner.

The Mayor presided and the City Clerk recorded the proceedings.

The Mayor informed the public about the location of the current copy of the Open Meetings Act posted in the City Council Chambers and accessible to members of the public.

Notice of the meeting was given in advance thereof by publication in the Norfolk Daily News, Norfolk, Nebraska, the designated method of giving notice, as shown by affidavit of publication.

Notice was given to the Mayor and all members of the Council and a copy of their acknowledgement of receipt of notice and agenda is attached to the minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

Councilperson Brenneman moved, seconded by Councilperson Fauss 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 Lange moved, seconded by Councilperson Van Dyke 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

R. J. Baker and Karen Linnenbrink, **Elkhorn Valley Economic Development** Council, updated the Mayor and City Council on services offered by the Elkhorn Valley Economic Development Council. Baker distributed an informational sheet on the Japan-U.S. Midwest Conference. Baker also attended a trade show in Chicago, Illinois; has given three (3) tours of the vacant Tyson building; and continues to work on the natural gas issues for the area. Linnenbrink distributed marketing information used by EVEDC and reviewed the annual report with elected officials.

Dr. Bill Path, Northeast Community College, gave a presentation to the Mayor and City Council on the vision of the **College of Nursing** Northern Division. During the past year, Path has been visiting the twenty (20) counties of Northeast Nebraska that represent the Northeast Community College service area speaking to audiences about the need for registered nurses within the region and describing the opportunity to develop the Northern Division of the UNL Medical Center's College of Nursing. Path said this will be a permanent facility in Northeast Nebraska. According to a feasibility study conducted by the University of Nebraska Medical Center, in cooperation with Northeast Community College and Faith Regional Health Services in Norfolk, multiple demographic findings emphasize the need for accessible and advanced educational opportunities in the Northern region of Nebraska:

The demand for registered nurses (RNs) in Nebraska is projected to increase 25% by 2020;

The Northern region of Nebraska has the most significant shortage of RNs and BSNs in the state;

The Northern region also has the most notable shortage of advanced practice nurses and Master of Science registered nurses; and

The Northern region has a growing demand for health care based on an aging population.

Path stated the program will include training from the basic nursing assistant program to the PhD degree. The first step to getting the program to Northeast Nebraska is conducting a feasibility study that demonstrates the project as sustainable. Secondly, a facility needs to be constructed. Path stated building costs are estimated to be \$10.8 million with a total project cost of \$12.9 million. Northeast Community College is donating land, worth approximately \$500,000, on the main campus for the facility. Path "is looking at a combination of private and public dollars" for this project.

Path urged elected officials to consider the nursing college during the City's FY 2008-2009 budget. Path stated a capital campaign is being considered to construct the facility. This is the largest single capital campaign that has ever been attempted in Norfolk, Nebraska; however, the benefits are far greater than anything else attempted in Northeast Nebraska. Path stated the economic development opportunities created by the project are huge.

Councilperson Saunders questioned when the first freshmen registered nurse class of the Nursing College is expected to graduate.

Dr. Path stated the first freshmen class should graduate in 2012. Path stated instructors for the college will also need to be recruited to Norfolk.

Senator Mike Flood gave a presentation to the Mayor and City Council of key legislative ideas on possible funding for Nebraska's **expressway** program, including Highway 35. Flood identified three different areas that are part of the mission of Nebraska senators: public safety; care for those who can't care for themselves; and infrastructure. Nebraska's roads are smooth and there is a non-political system in place to develop the infrastructure and roads. Infrastructure allows growth, provides economic development opportunities, is important for safety and serves citizens and visitors to Nebraska. Flood explained that in 1988 Governor Kay Orr presented the 1988 Expressway Plan. The mission of the 1988 Expressway Plan was to "connect cities with

15,000 population to the interstate.” Flood stated “great progress has been made” critical links remain to make “this investment payoff for Nebraskans.” Uncompleted expressway segments include the Lincoln South Beltway; Schuyler to Fremont; I-80 to North of Kimball; Nebraska City to Bellevue; Wahoo to Fremont; York to Columbus; and Norfolk to Winslow. Flood stated that many projects, including Norfolk to South Sioux City, are not even engineered yet. Flood stated “there is no point in making the project a priority at this time because it is absolutely going nowhere.” Flood stated traffic counts are under 10,000 vehicles per day and the Highway 35 project “will probably not get any priority status.” Flood explained Federal gas tax revenues are down, Federal highway dollars are disappearing and State gas tax receipts are down. Flood stated motorists are using less fuel and Federal dollars are scarce and this is a nation-wide problem. Flood stated the State highway priorities are: (1) system preservation; (2) interstate; (3) state highways; and (4) expressways. Flood stated the Legislature must address these funding shortfalls. Flood stated funding needs are State-wide and citizens need to work together to get the project done throughout the state. Flood doesn’t feel consumers can afford a gas tax increase. Flood feels state legislatures need to start looking at the State’s cash reserve to fund highway completion projects across Nebraska. Flood requested elected officials consider doing the following: (1) consider the roads funding issue the number 1 priority facing the City of Norfolk this year in the Legislature; (2) contact counter-parts about the issue; (3) testify at Legislative hearings; and (4) be patient.

## CONSENT AGENDA

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

The City Council authorized the Mayor to sign and forward a letter to the Highway 35 Association on possible funding for Nebraska’s **expressway** program.

The City Council approved a Special Designated Liquor License for **Eagles** Norfolk Aerie #3611 to sell beer and distilled spirits at the National Guard Armory, 817 South 1st Street, on Friday, Saturday and Sunday, February 22, 23 and 24, 2008, at the Eagles state shuffleboard charity tournament.

The City approved and authorized the Mayor to sign a partial deed of reconveyance for part of Lot 5, **Roman’s** Third Addition, a replat of a part of Lot 5, Roman’s Second Addition, a replat of Lot 2, Roman’s Addition, an addition to the City of Norfolk, Madison County, Nebraska.

The City Council approved and authorized the Mayor to sign an agreement with the Downtown Norfolk Association for the Norfolk Community Christmas Celebration **Parade** on November 24, 2007.

The City Council approved all bills on file in the amount of \$714,451.93.

## REGULAR AGENDA

Public hearings were held simultaneously to consider an amendment to the City of Norfolk’s Comprehensive Plan from commercial to high density residential; a zoning change from I-1 (Light Industrial District) to R-3 (Multiple Family Residential District); and a zoning change

from I-1 (Light Industrial District) to C-3 (Service Commercial District) on property located at 25th Street/Pasewalk Avenue and Michigan Avenue at the request of S.W.A.D., L.L.C. Prevention Manager Scott Cordes provided information to the Mayor and City Council. Cordes explained this is a three-part process the first of which is consideration of changing the Comprehensive Plan along with two subsequent zoning changes.

Mayor Adams requested speakers limit comments to five (5) minutes and that information is not repeated.

Dick Johnson, Johnson Engineering, 701 Michigan Avenue, spoke in favor of the Comprehensive Plan amendment and zoning changes. Johnson represents SWAD, LLC (applicant) and Pedcor (developer of apartment complex). The proposal is to construct 4-16 unit apartment buildings plus a clubhouse and swimming pool. Pedcor will utilize NIFA tax credits for the project and will be an active owner of the project. Because NIFA financing will be utilized, Pedcor must retain ownership of the property for approximately 30 years. Johnson stated property is currently zoned R-3 across the street to the west of the proposed project. The applicant is requesting R-3 for the development and C-3 zoning as a buffer to I-1 property located south of the proposed development. Johnson stated access to the apartment complexes will be off Michigan Avenue with buffering above City requirements. Johnson stated the City of Norfolk has other areas with mixed use including Village Green, Boulevard Village, Lake View Apartments, and Amberwood Apartments.

Councilperson Lange questioned whether the residential and commercial zoning are tied together.

Johnson stated the development will use the commercial zoning as a buffer between industrial and residential. Johnson stated the commercial zoning change request will probably be withdrawn if the residential zoning change request is denied.

Paul Medelman, 702 West Benjamin Avenue, spoke in favor of the amendment and zoning change requests on behalf of SWAD LLC. Medelman has owned the property for almost five years and has not been able to sell it as industrial. Medelman stated the City will benefit from the \$8.5 million project with approximately \$80,000 - \$100,000 in sales tax receipts. Medelman stated Omaha and Lincoln have used the mixed use concept with success. Medelman stated the traffic counts in the area do not show a safety concern with the proposed development. Medelman answered Lange's question and stated the commercial rezoning will be removed if the residential rezoning isn't approved. Medelman is "in negotiations with the property owner (Dr. Desai) of Rickert's 3rd Addition" to purchase the property.

Don Kellogg, 1311 Sheridan Drive, spoke in favor of the development. Kellogg feels Norfolk is "suffering from a lack of growth" and the Comprehensive Plan shows the area as mixed zoning. Kellogg feels Norfolk needs economic development and this is a good project.

Gary Blinn, 1507 Eldorado Road, (Norfolk Beverage) spoke in opposition to the amendment and zoning change requests. Blinn is not opposed to the development but doesn't feel the location is the right choice citing truck traffic, safety concerns and long range planning for the City.

Vern Zwingman, 2116 Highland Drive, (Vulcraft/Nucor Cold Finish) spoke in opposition to the amendment and zoning changes. Zwingman has concerns that truck noise may disrupt apartment residents. Zwingman is not opposed to the development but "this is not the right place."

Diane Blinn, 1507 Eldorado Road, spoke in opposition to the amendment and zoning changes on behalf of Bedrock LLC and as a citizen. Blinn has safety concerns and referenced the Transportation Plan of the City of Norfolk. The Transportation Plan states “the most notable area of continued development in the City is along Highway 275 with commercial, service, office and restaurant sectors of employment are expected to dominate development.” The Plan also mentions, “safety improvements over expanded capacity”; “minimize conflicts between roadways, rail, public transit, bicycle and pedestrian facilities.” Blinn feels the City needs to involve the school system in “making future projections.” Blinn doesn’t feel it is safe for children to cross Highway 275 to go to school.

Councilperson Saunders questioned whether Fire Chief Shane Weidner feels safety is a concern for the proposed development.

Weidner stated safety is always a concern for children crossing a major highway. Weidner explained the same situation is in place for children crossing Omaha Avenue to attend Washington School.

Randy Dunst, 2814 Golf View Drive, plant controller for Veyance Technologies Inc., formerly Goodyear, spoke in opposition to the amendment and zoning change requests. Dunst feels the project “is a terrific opportunity for Norfolk but not for that site.” The plant runs 24 hours a day and noise is involved. Dunst is concerned with “being a good neighbor” to residential properties. Dunst stated people always have concerns with living by noise, increases in traffic and safety surrounding an industrial area even if the industry is “located there first.”

Ivan Peterson, 825 West Benjamin Avenue, spoke in opposition to the proposed project. Peterson owns 95 apartments in Norfolk and stated the vacancy rate in Norfolk is approximately 18% according to Sheila Miller, the City’s housing director. NIFA’s vacancy rate for Norfolk in 2005 was stated at 8.4% and in 2006 it was 9.35%. Peterson feels the cost of the project is “outrageous” and the location is bad.

Councilperson Lange questioned whether Peterson’s objections are personal and not against the zoning change requests.

Peterson is seeing the negative effects of the high vacancy rates in Norfolk. Peterson “wishes the project didn’t include NIFA financing” because it creates unfair advantages. Peterson doesn’t feel people “should be asked to live in an industrial area of the community.” Peterson has concerns with the “timing, cost and location of the project.”

Dick Johnson stated the developer has a good business plan in place and owns over 12,000 units in the Midwest. The business plan is to put residential in areas close to commercial developments to attract people who work at places like Walmart and Shopko. Johnson stated the developer conducted a study of the area which showed the development was a good venture and a good location for the project. Johnson questioned whether the Council is going to base zoning decisions on how projects are funded in the future.

Councilperson Fauss questioned how many of Pedcor’s apartments are located by an industrial tract.

Johnson understands Pedcor has some complexes in Grand Island and Kearney located near commercial developments but doesn’t know if any are located by industrial. Johnson stated the

area is currently zoned light industrial but feels a good part of it is going to develop commercial in the future. Johnson pointed out the property located on the south side of Monroe Avenue is zoned light industrial.

Mark Hall, 1642 Hackberry Drive, spoke in opposition to the amendment and zoning change requests. Hall has safety and quality of life concerns with the project at that location.

No one else appeared either in favor of or in opposition to the Comprehensive Plan amendment and zoning changes and the Mayor declared the hearings closed.

On November 6, 2007, the Norfolk Planning Commission held public hearings regarding the requests by S.W.A.D., L.L.C. The City Clerk read the Planning Commission's recommendations for denial into the record.

The Mayor requested consideration of Ordinance No. 4985 amending the Norfolk Comprehensive Plan at 25th Street/Pasewalk Avenue and Michigan Avenue from commercial to high density residential at the request of S.W.A.D., L.L.C.

Dick Johnson, on behalf of Paul Medelman, requested Ordinance Nos. 4985, 4986 and 4987 be tabled at this time.

Councilperson Van Dyke introduced Ordinance No. 4985 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Councilperson Reeder seconded the motion.

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

The Mayor requested consideration of Ordinance No. 4986 for a zoning change from I-1 (Light Industrial District) to R-3 (Multiple Family Residential District) at 25th Street/Pasewalk Avenue and Michigan Avenue at the request S.W.A.D., L.L.C.

Councilperson Van Dyke introduced Ordinance No. 4986 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Councilperson Wilson seconded the motion.

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

The Mayor requested consideration of Ordinance No. 4987 for a zoning change from I-1 (Light Industrial District) to C-3 (Service Commercial District) at 25th Street/Pasewalk Avenue and Michigan Avenue at the request S.W.A.D., L.L.C.

Councilperson Van Dyke introduced Ordinance No. 4987 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.

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

The Mayor requested consideration of Ordinance No. 4981 amending the Comprehensive Plan at 1620 North 37th Street from golf course to medium density residential. Ordinance No. 4981 passed on first reading at the November 5, 2007 City Council meeting.

Councilperson Brenneman introduced Ordinance No. 4981 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on second reading. Councilperson Lange seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Dick Johnson, Johnson Engineering, explained a lot of time and effort has been put into meeting with neighbors surrounding the proposed project. The developer will preserve as many trees as possible that are currently on the property and plant new trees, if necessary, to act as a buffer for neighbors. Johnson stated retaining walls will be constructed allowing a 20-25 foot back yard for the townhouses and also to act as a buffer for the neighbors.

Councilperson Wilson questioned whether the covenants will reflect the agreement about the trees.

Bob Hupp, 900 North 37th Street, commended the City Council “for their patience” and for working with the neighbors on the project. Hupp read parts of the tree policy outlined in the covenants.

Councilpersons Wilson and Coy appreciate that “both sides are willing to compromise for the betterment of this project.”

Councilperson Coy “echoed those sentiments.”

Jeff White, 3609 Golf View Drive, thanked Bob Hupp for working with adjoining property owners to alleviate concerns regarding the project. White also thanked Councilpersons Coy,

Reeder, Wilson and Fauss for work done on the project. White spoke on behalf of the neighbors and said "no one is opposed to the project now."

Roll call on Ordinance No. 4981 on second reading: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4981 passed on second reading.

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. 4981 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. 4981 as required by law.

The Mayor requested consideration of 4982 for a zoning change from R-1 (Single Family Residential District) to R-2 (One and Two Family Residential District) at 1620 North 37th Street. Ordinance No. 4982 was tabled at the November 5, 2007 City Council meeting.

Councilperson Van Dyke moved to bring Ordinance No. 4982 from the table, seconded by Councilperson Fauss. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

Councilperson Fauss introduced Ordinance No. 4982 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 Saunders 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. 4982 passed on first reading.

Councilperson Lange 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 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 Reeder. The Mayor then stated the question "Shall Ordinance No. 4982 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. 4982 as required by law.

No comments were received regarding the monthly commercial and industrial building permit report for October 2007 or the Works-In-Progress report for the period October 31 through November 13, 2007. Both reports were included in the agenda packets.

Councilperson Van Dyke moved, seconded by Councilperson Reeder to adjourn the meeting at 9:28 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, November 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.

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Elizabeth A. Deck  
City Clerk

( S E A L )