

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 15th day of October, 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, 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 Van Dyke moved, seconded by Councilperson Brenneman 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.

Dick Johnson, Johnson Engineering, on behalf of Pedcor, Inc. requested that Items D-2, D-3, E-3 and E-4 related to the zoning application at 25th Street and Pasewalk Avenue be deleted from the agenda. The owner of the property S.W.A.D., LLC, concurs with the withdrawal request.

Councilperson Brenneman moved, seconded by Councilperson Wilson to amend the regular agenda with the deletions of Item D-2, public hearing to amend Comprehensive Plan; Item D-3, public hearing to consider a zoning change from I-1 to R-3; Item E-3, Ordinance No. 4977 amending the Comprehensive Plan; and Item E-4, Ordinance No. 4978 changing the zoning from I-1 to R-3 and to adopt the regular agenda as amended. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

SPECIAL PRESENTATION

The Mayor proclaimed the week of October 22-26, 2007 as "Red Ribbon Week."

CONSENT AGENDA

The City Council approved the minutes of the October 1, 2007, City Council meeting as printed.

The City Council adopted Resolution No. 2007-57 releasing the 5' utility **easement** located on each side of the common lot line between Lots 1 and 2, between Lots 2 and 3, and between Lots 3 and 4, **Brtek's** Subdivision, a replat of Lots 13 and 14, **Herman Nenow's** Addition, a Subdivision in the City of Norfolk, Madison County, Nebraska, and the west 10' of said Lots 1 through 4, Brtek's Subdivision, a replat of Lots 13 and 14, Herman Nenow's Addition, a Subdivision in the City of Norfolk, Madison County, Nebraska.

The City Council approved a Special Designated Liquor License for HyVee, Inc., dba **HyVee #2**, for a yearly Priest Appreciation Dinner at Sacred Heart Parish Center, 2301 West Madison Avenue, Norfolk, Nebraska on Monday, October 29, 2007. HyVee #2 has a catering license.

The City Council approved City staff repairing **sidewalks** located at 707 East Pasewalk Avenue and 506 Logan Street according to Section 22-23 of City Code. The property owners have not responded to written requests requiring the repairs pursuant to the City's Transition Plan.

The City Council approved and authorized the Mayor to sign a Water Connection Agreement with Ronald E. and Sherry R. **Kraemer**, 1503 West Norfolk Avenue, to connect property located at 1501 West Norfolk Avenue (Sherry's House) to the City's water system in the Highway 35 right-of-way, east of Victory Road.

The City Council approved and authorized the Mayor to sign an agreement with the City of Stanton for **inspection services**. The agreement has a term of five (5) years.

The City Council approved all bills on file in the amount of \$1,801,481.87.

REGULAR AGENDA

A public hearing was held for the Mayor and City Council to sit as a Board of Equalization to levy **special assessments** in the amounts of \$237.55 and \$49.18 for mowing, litter removal, tree removal and structure repairs at 1105 Elm Avenue and 209 South 2nd Street, respectively.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to adjourn as Mayor and City Council and convene as a Board of Equalization to hear and equalize **special assessments** in the amounts of \$237.55 and \$49.18 for mowing, litter removal, tree removal and structure repairs at 1105 Elm Avenue and 209 South 2nd Street, respectively. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

City Clerk Beth Deck provided information to the Mayor and City Council. This public hearing authorizes the Mayor and City Council, sitting as a Board of Equalization, to levy special assessments of \$237.55 for mowing, litter removal, tree removal and structure repairs at 1105 Elm Avenue, (W 15' of Lot 2 and all of Lot 3, Block 5 Verges Additional Suburban Lots), and \$49.18 for mowing and grass/litter removal at 209 South 2nd Street (the N 71' of Lots 7 and 8,

Block 1, Ranson's Addition). The owners of the properties (E. F. Schrant and Joan Hupp) were notified by certified mail of the required upkeep/repairs. When the owners failed to provide the maintenance, City staff performed the work. Following adoption of the resolutions to levy special assessments, a lien is filed against the properties and interest will accrue in the same manner as a special assessment.

No one appeared either in favor of or in opposition to levying the special assessments and the Mayor declared the hearing closed.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to adjourn as a Board of Equalization and reconvene as Mayor and City Council. 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. 2007-54 levying a **special assessment** in the amount of \$49.18 for removal of weeds, litter and debris on the North seventy-one feet of Lots 7 & 8, Block 1, Ranson's Addition (209 South 2nd Street).

Councilperson Lange introduced for adoption Resolution No. 2007-54 levying a special assessment in the amount of \$49.18 for removal of weeds, litter and debris on the North seventy-one feet of Lots 7 & 8, Block 1, Ranson's Addition (209 South 2nd Street), seconded by Councilperson Brenneman. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Resolution No. 2007-54 was adopted.

The Mayor requested consideration of Resolution No. 2007-55 levying a **special assessment** in the amount of \$237.55 for removal of weeds, litter and debris, tree maintenance and property maintenance on the west fifteen feet of Lot 2 and all of Lot 3, Block 5, Verges Additional Suburban Lots (1105 Elm Avenue).

Councilperson Brenneman introduced for adoption Resolution No. 2007-55 levying a special assessment in the amount of \$237.55 for removal of weeds, litter and debris, tree maintenance and property maintenance on the west fifteen feet of Lot 2 and all of Lot 3, Block 5, Verges Additional Suburban Lots (1105 Elm Avenue), 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. 2007-55 was adopted.

The Mayor requested consideration of Ordinance No. 4962 for a zoning change from R-1 (Single Family Residential District) to R-2 (One and Two Family Residential District) at 1407 and 1409 West **Park** Avenue. Ordinance No. 4962 passed on first reading with an 8-0 vote at the August 20, 2007 City Council meeting, and was tabled at the September 4, 2007 meeting due to problems with the sale of the property.

Councilperson Reeder moved, seconded by Councilperson Van Dyke to bring Ordinance No. 4962 from the table. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried.

Councilperson Brenneman introduced Ordinance No. 4962 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 second reading. Councilperson Reeder seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

Prevention Manager Scott Cordes stated the sale of the property is complete and the zoning change is necessary for the Planning Commission to move forward with consideration of a conditional use permit to construct townhouses on the property.

Roll call on Ordinance No. 4962: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Ordinance No. 4962 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 Wilson. The Mayor then stated the question "Shall Ordinance No. 4962 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. 4962 as required by law.

The Mayor requested consideration of Ordinance No. 4976 amending Ordinance No. 4945 as passed by the Mayor and City Council on May 21, 2007 to provide a corrected Exhibit "A" depicting the area to be **vacated** related to the vacation of a portion of the plat of **Walters' East Knolls** Seventh Addition.

Councilperson Wilson introduced Ordinance No. 4976 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND ORDINANCE NO. 4945 AS PASSED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORFOLK ON MAY 21, 2007 TO PROVIDE A CORRECTED EXHIBIT "A" DEPICTING THE AREA TO BE VACATED; 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. 4976 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. 4976 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. 4976 as required by law.

The Mayor requested consideration of Ordinance No. 4979 amending Section 3-5 of City Code to establish the hours during which the holder of a Special Designated Liquor License may sell or distribute **alcoholic** liquors on Sunday.

Councilperson Van Dyke introduced Ordinance No. 4979 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 3-5 OF THE OFFICIAL CITY CODE TO AUTHORIZE THE CITY COUNCIL TO ESTABLISH THE HOURS DURING WHICH THE HOLDER OF A SPECIAL DESIGNATED PERMIT MAY SELL OR DISTRIBUTE ALCOHOLIC LIQUORS ON SUNDAY; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Councilperson Lange seconded the motion. Said ordinance was then read into the record by title by the City Clerk.

City Attorney Clint Schukei explained this item was brought forward in response to a request from the Nebraska State Fraternal Order of Eagles. The Eagles want to sell beer and liquor on Sunday morning, February 24, 2008, at the National Guard Armory for a charity fundraising shuffleboard tournament. Currently, City Code prohibits the sale of any alcohol before 12:00 noon on Sunday. However, state law does allow for the sale of beer and wine on Sunday morning between the hours of 6:00 a.m. and 12:00 noon if the local governing body has approved an ordinance permitting the same. Ordinance No. 4979 amends Section 3-5 by adding: (c) "The hours during which a holder of a special designated permit may sell or distribute alcoholic liquors on Sunday shall be established by the city council at the time the permit application is considered." Schukei explained State Statute does not allow for the sale of hard liquor prior to noon on Sunday. Ordinance No. 4979 gives elected officials the flexibility to set the hours of sale of alcohol on Sunday morning through the Special Designated Liquor Permit application process.

Bob Plisek, secretary for the Eagles, spoke in favor of the amendment. The Eagles encourages members to have a designated driver and will also be providing shuttle service during the tournament. Plisek stated the Eagles have held this tournament in Beatrice and Alliance and both have allowed the sale of beer on Sunday morning.

Councilperson Fauss questioned the starting time of the tournament on Sunday.

Plisek stated the tournament starts at approximately 8:30 a.m. or 9:00 a.m. on Sunday.

Councilperson Wilson pointed out that the Eagles SDL is not being approved at tonight's meeting. The only item for consideration is Ordinance No. 4979 amending City Code to give the Council the ability to allow Sunday liquor sales by way of an SDL application.

Councilperson Brenneman feels Sunday morning is a “time for church and not alcohol sales.” Brenneman feels it is dangerous for people to drink on Sunday morning of the tournament and then drive home early Sunday afternoon.

Councilperson Coy questioned whether event organizers have considered having the tournament on Friday and Saturday instead of Saturday and Sunday.

Plisek said people work on Friday so Saturday and Sunday tournament days work best.

Roll call on Ordinance No. 4979: Ayes: Councilpersons Coy, Lange, Van Dyke and Wilson. Nays: Reeder, Brenneman, Fauss and Saunders. Absent: None. There being a tie, Mayor Adams voted in favor of Ordinance No. 4979. Ordinance No. 4979 passed on first reading only.

The Mayor requested consideration of Ordinance No. 4980 **vacating** the north/south alley between Lots 8, 9, 10 and 15 of Herman Nenow’s Addition to the City of Norfolk, Madison County, Nebraska, and Lots 1 through 4, Brtek’s Subdivision to the City of Norfolk, Madison County, Nebraska.

Councilperson Wilson introduced Ordinance No. 4980 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO VACATE THE NORTH-SOUTH ALLEY BETWEEN LOTS 8, 9, 10, AND 15 OF HERMAN NENOW’S ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AND LOTS 1 THROUGH 4 BRTEK’S SUBDIVISION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA ALL IN THE SW ¼ OF SECTION 26-24-1; TO PROVIDE THAT THE REAL PROPERTY COMPRISING SAID ALLEY REVERT TO THE OWNERS OF THE ADJACENT REAL PROPERTY ABUTTING THERETO PURSUANT TO SECTION 16-611 N.R.S. 1943 (REISSUE 1991), AS AMENDED; TO PROVIDE FOR THE RESERVATION OF UTILITY EASEMENTS; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND TO PROVIDE FOR 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.

Public Works Director Dennis Smith stated property owners agree to the vacation. The ordinance provides for one-half of the alley to revert to the adjacent property owners on each side of the alley. The ordinance also provides for retention of a utility easement encompassing the area currently covered by the alley.

Councilperson Wilson abstained for voting on this item.

Roll call on Ordinance No. 4980: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Abstaining: Wilson. Motion carried. Ordinance No. 4980 passed on first reading.

Councilperson Fauss moved that the statutory rule requiring reading on three different days be suspended. Councilperson Coy seconded the motion to suspend the rules. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Abstaining: Wilson. Motion carried. The motion to suspend the rules was

adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilperson Fauss moved that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance which motion was seconded by Councilperson Coy. The Mayor then stated the question "Shall Ordinance No. 4980 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Abstaining: Wilson. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 4980 as required by law.

The Mayor requested consideration of Resolution No. 2007-56 approving an agreement with the Nebraska Department of Roads (NDOR) for reconstruction of 25th Street as a three-lane section between U.S. 275 and Benjamin Avenue which the NDOR has designated as Project No. URB-6001(1), State Control No. 31875.

Councilperson Van Dyke moved for adoption of Resolution No. 2007-56 approving the agreement with the Nebraska Department of Roads (NDOR) for reconstruction of **25th Street** as a three-lane section between U.S. 275 and Benjamin Avenue, which the NDOR has designated as Project No. URB-6001(1), State Control No. 31875, seconded by Councilperson Brenneman.

Public Works Director Dennis Smith explained this is the first step for reconstruction of 25th Street from U.S. 275 to Benjamin Avenue. The project will include a traffic study to determine the best traffic control for the intersection at 25th Street and Norfolk Avenue. The project will also include an eight-foot trail on one side of the street. The cost of preliminary engineering, right-of-way, non-betterment utility rehabilitation, construction and construction engineering is estimated at \$4,185,000. This agreement provides for the City to be reimbursed by the State, using Federal STP funds, up to 80% of the actual eligible costs, which is currently estimated at \$3,348,000. Because this is a project using federal funds, the design will need to meet federal standards.

Marilyn Alexander, 2408 West Norfolk Avenue, spoke in opposition to the project. Alexander feels the \$837,000 City share of the project could be put to better use in the community, e.g. gas line upgrades, street maintenance repairs. Alexander stated 25th Street is busy but not as busy as Norfolk Avenue. Alexander feels people use 25th Street to avoid 13th Street.

Mayor Adams stated the \$837,000 comes from gasoline tax and can only be used for road improvements.

Bill Alexander, 2408 West Norfolk Avenue, said many cars using 25th Street "are turning left and going to the Catholic school." Alexander said there isn't any congestion on the street north of Prospect. Alexander feels the only thing that needs to be done is revamping the intersection at 25th Street and Norfolk Avenue. Alexander questioned why the City would redo the street based on a survey done a long time ago.

Smith stated the reconstruction project is based on traffic counts completed by the Nebraska Department of Roads (DOR) about six months ago. The DOR gathers data and provides it to the

City about every two years. A traffic study was completed about 12-18 months ago. Smith stated the hospital generates a lot of traffic in that area and the City hears a lot of concerns with the 25th Street intersection.

Alexander estimates about 30% of the vehicles traveling on the street are from out-of-town. Alexander suggests the City redo the intersection to push the traffic to 13th Street and Norfolk Avenue and use the money to enhance economic development in Norfolk.

City Administrator Mike Nolan explained a lot of engineering is done prior to making decisions on road construction including traffic studies, traffic counts and aerial photos. Nolan stated Norfolk's growth has been to the northwest and will probably continue in that direction over the next ten years.

Councilperson Reeder requested staff provide the information (e.g. traffic study, traffic counts, aerial photos) to the Alexanders.

Marilyn Alexander feels 37th Street needs a lot more work than 25th Street.

Nolan explained 37th Street is out of the city limits.

Councilperson Van Dyke was opposed to placing a round-a-bout at 18th Street and Pasewalk Avenue and now "loves it."

Nolan stated a round-a-bout may be one of the considerations for the intersection of 25th Street and Norfolk Avenue.

Roll call on Resolution No. 2007-56: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Wilson, Brenneman, Fauss and Saunders. Nays: None. Absent: None. Motion carried. Resolution No. 2007-56 was adopted.

No comments were received regarding the monthly commercial and industrial building permit report for September 2007; the Police Division report for August 2007; and the Works-In-Progress report for the period September 26 through October 9, 2007. All the reports were included in the agenda packets.

Councilperson Van Dyke moved, seconded by Councilperson Reeder to adjourn the meeting at 8:17 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, October 15, 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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