

CITY OF NORFOLK, NEBRASKA

The Mayor and City Council of the City of Norfolk met in regular session in the Council Chambers, 309 West Madison Avenue, Norfolk, Nebraska on the 4th day of September, 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, Brenneman, Fauss, and Saunders. Absent: Wilson.

Staff members present were: City Administrator Mike Nolan, Director of Public Works Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Wastewater Plant Superintendent Todd Boling, Finance Officer Randy Gates, Prevention Manager Scott Cordes 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 Brenneman to approve the consent agenda as printed. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried.

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

CONSENT AGENDA

The City Council approved the minutes of the August 20, 2007 City Council meeting as printed.

The City Clerk was authorized to establish September 17, 2007 as the public hearing date to review the City of Norfolk's FY 2007-2008 municipal **budget**.

The City Clerk was authorized to establish September 17, 2007 as the public hearing date to review the City of Norfolk's FY 2007-2008 proprietary **budget** (water, sewer, solid waste).

The City Clerk was authorized to establish September 17, 2007 as the public hearing date to consider the City of Norfolk's General Fund and Vehicle Parking Fund **property tax** requests for FY 2007-2008 in amounts different from FY 2006-2007.

The City Clerk was authorized to establish September 17, 2007 as the public hearing date to comply with the provisions of N. R. S. 18-1755 and 25-2501, et. seq. before the purchase of property located at 404 **McKinley** Street.

The City Council adopted Resolution No. 2007-46 approving the final plat of **Greater Norfolk Northeast Addition** and authorizing the Mayor to sign the accompanying subdivision agreement. This is a one-lot subdivision at 2301 North Victory Road.

The City Council adopted Resolution No. 2007-47 releasing the five foot utility **easement** located on each side of the common lot line between Lots 12 and 23, **Town and Country** Second Addition to the City of Norfolk, Madison County, Nebraska, less the south five feet of said easement. Troy and Maggi Jones requested release of the easement.

The City Council authorized the Mayor to sign and forward a letter of no recommendation to the Nebraska Liquor Control Commission on the "Class C" liquor license application of **Fine Wine**, LLC, dba Jim's Fine Wine & More, Suite 200, 2001 Market Lane, and the Corporate Manager Application of James Rutten.

The City Council authorized the Mayor to sign and forward a letter of no recommendation to the Nebraska Liquor Control Commission on the "Class C" liquor license application of **Club Hollywood**, Inc., 117 South 3rd Street, and the Corporate Manager Application of Ana E. Macias.

The City Council approved an amendment to the DLS contract for additional services and fees for a study and development of a master plan for improvements to the athletic facilities at **Memorial Field** and **Ta-Ha-Zouka Park**. Cost of the additional services and fees is \$4,750 and \$7,300 respectively.

The City Council approved all bills on file in the amount of \$2,074,424.10.

REGULAR AGENDA

A public hearing was held to consider the **Crafts, Inc. Redevelopment Plan**. Marlin Meisinger, Crafts, Inc. provided information to the Mayor and City Council. The property is located on the corner of South 13th Street and Monroe Avenue and contains a total of nine acres. However, only the front 3.5 acres will be used for the project. Following site preparation, the redeveloper intends to construct an 18,000 square foot commercial building that will house a full-service sales and parts business for commercial trucks. The redevelopment includes: removal of residual asbestos in the old Romans Packing building; removal of the existing building and loading docks; site preparation to include filling and grading the site; constructing an 18,000 square foot commercial building for store parts inventory, offices, and retail space for sales and service of trucks; constructing extensive concrete parking and staging area surrounding the premises; constructing access to Monroe Avenue on the north side; and construction period interest incurred by redeveloper as permissible costs. The business will include seven service bays, a wash bay and parts display as well as office space. Meisinger stated the remaining portion of the property to the east will be available for sale and/or development in the future.

Public Works Director Dennis Smith stated the project includes the use of tax increment financing (TIF) for infrastructure development including removal of asbestos, demolition of dilapidated

structures, filling and grading the site, and sidewalk and landscaping to serve the redevelopment project area. The TIF funding will allow the site to get back to bare ground for the Crafts, Inc. project. The redeveloper has stated the project is not economical if TIF is not utilized.

No one else appeared either in favor of or in opposition to the Crafts, Inc. Redevelopment Plan and the Mayor declared the hearing closed.

The Mayor requested consideration of Resolution No. 2007-44 for approval of the Crafts, Inc. Redevelopment Plan.

Councilperson Van Dyke moved for adoption of Resolution No. 2007-44 approving of the Crafts, Inc. Redevelopment Plan, seconded by Councilperson Lange. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Resolution No. 2007-44 was adopted.

A public hearing was held to consider a zoning change from A (agricultural district) to S-R (suburban residential district) on thirteen lots in **Tara Heights** and Tara Heights 2nd Addition at the request of twelve property owners. Prevention Manager Scott Cordes provided information to the Mayor and City Council. Cordes stated a property owner in the Tara Heights Subdivision was building a garage and discovered the entire Tara Heights Addition is zoned A (Agricultural) and that the garage was encroaching into the setback. In seeking a solution to this problem, City staff decided to contact property owners in the subdivision to see about interest in bringing all of the properties into conformance by rezoning to the more appropriate S-R (Suburban Residential) zoning. However, only twelve property owners representing thirteen lots applied for the zoning change from A to S-R. Cordes stated the City has the authority to force residents to rezone if that is the wish of elected officials. Cordes feels other property owners will eventually come forward with zoning change requests because of the restrictions of an Agricultural zoning district.

Councilperson Brenneman feels the entire Tara Heights Subdivision should have been rezoned to the S-R zoning at this time.

City Administrator Mike Nolan stated elected officials have that prerogative but staff did not want to impose on the property owners. Nolan stated elected officials could approve the current request and meet with the other property owners to see about their interest in rezoning to a conforming use.

City Attorney Clint Schukei doesn't feel the property is being spot zoned because the basic use of the land is not changing.

Councilperson Reeder feels Cordes did a good job working with the residents but suggested staff work with the other property owners in the future to see if opinions can be changed about rezoning all of the property.

On August 21, 2007, the Norfolk Planning Commission held a public hearing regarding the Tara Heights zoning change request. The City Clerk read the Planning Commission's recommendation for approval into the record.

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

The Mayor requested consideration of Ordinance No. 4965 for a zoning change from A (agricultural district) to S-R (suburban residential district) on thirteen lots in Tara Heights and Tara Heights 2nd Addition at the request of twelve property owners.

Councilperson Saunders introduced Ordinance No. 4965 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, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Ordinance No. 4965 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, Reeder, Brenneman, Fauss and Saunders. Nays: Van Dyke. Absent: 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 Reeder. The Mayor then stated the question "Shall Ordinance No. 4965 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Reeder, Brenneman, Fauss and Saunders. Nays: Van Dyke. Absent: 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. 4965 as required by law.

The Mayor requested consideration of Ordinance No. 4962 changing the zoning 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 at the August 20, 2007 City Council meeting.

Councilperson Reeder 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 Van Dyke seconded the motion.

Prevention Manager Scott Cordes explained Ordinance No. 4962 passed on first reading only at the August 20 meeting to allow a Conditional Use Permit to "catch up" with the process. However, the applicants have not yet moved forward with the Conditional Use Permit. Cordes requested Ordinance No. 4962 be tabled at this time.

Councilperson Reeder moved, seconded by Councilperson Coy to table consideration of Ordinance No. 4962 on second reading. Roll call: Ayes: Councilpersons Coy, Lange,

Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Ordinance No. 4962 was tabled.

The Mayor requested consideration of Ordinance No. 4964 amending Section 24-165.1 of City Code to remove **15-minute parking** stalls that had previously been removed by Ordinance No. 4710 but which were inadvertently included in this section by Ordinance No. 4959.

Councilperson Fauss introduced Ordinance No. 4964 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 24-165.1 OF THE OFFICIAL CITY CODE TO REMOVE 15-MINUTE PARKING STALLS THAT HAD PREVIOUSLY BEEN REMOVED BY ORDINANCE NO. 4710 BUT WHICH WERE INADVERTENTLY INCLUDED IN THIS SECTION BY ORDINANCE NO. 4959; 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 Reeder 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, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Ordinance No. 4964 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, Brenneman, Fauss and Saunders. Nays: None. Absent: 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 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. 4964 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: 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. 4964 as required by law.

The Mayor requested consideration of Ordinance No. 4966 amending Section 27-104 of City Code to remove language contained in Ordinance No. 4960 passed on August 6, 2007 which unintentionally added subsection (d)(4) to Section 27-104 of the Official City Code to require a **party wall** agreement when utilizing a zero lot line in District R-2.

Councilperson Lange introduced Ordinance No. 4966 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO REMOVE LANGUAGE CONTAINED IN ORDINANCE NO. 4960 PASSED ON AUGUST 6, 2007 WHICH UNINTENTIONALLY ADDED SUBSECTION (D)(4) TO SECTION 27-104 OF THE OFFICIAL CITY CODE TO REQUIRE A PARTY WALL AGREEMENT WHEN UTILIZING A ZERO LOT LINE IN DISTRICT R-2 [SUBSECTION (D)(4) WAS NOT ADDRESSED AT THE PUBLIC HEARING BEFORE THE PLANNING COMMISSION OR CITY COUNCIL AND WAS NOT UNDERLINED TO SIGNIFY IT AS NEW LANGUAGE IN ORDINANCE NO. 4960]; 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 Brenneman seconded the motion. Said ordinance was then read into the record by title by the City Clerk. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Ordinance No. 4966 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, Brenneman, Fauss and Saunders. Nays: None. Absent: 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 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. 4966 be passed and adopted?" Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: 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. 4966 as required by law.

The Mayor requested consideration of Resolution No. 2007-45 approving a **hard surfacing waiver** for Heartland Baptist Church at 1213 East Philip Avenue.

Councilperson Brenneman introduced Resolution No. 2007-45 approving a hard surfacing waiver for Heartland Baptist Church at 1213 East Philip Avenue, seconded by Councilperson Reeder.

Prevention Manager Scott Cordes stated Heartland Baptist Church is seeking a three-year hard surfacing waiver to ease building costs. The Church will pave 68 stalls during 2007 and the remaining area will be paved over the next two years.

City Attorney Clint Schukei pointed out neither Resolution No. 2007-45 nor the attached diagram indicates the waiver is for a period of three years.

Councilperson Lange feels the time frame should be included in the resolution.

Schukei suggested elected officials table Resolution No. 2007-45 to provide time to get the correct wording in the document.

Councilperson Lange moved, seconded by Councilperson Van Dyke to table consideration of Resolution No. 2007-45. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried. Resolution No. 2007-45 was tabled.

The Mayor requested consideration of a contract with Westech for No. 1 thickener mechanism repair parts. The contract is in the amount of \$38,090.00.

Wastewater Plant Superintendent Todd Boling explained the No. 1 thickener mechanism failed and caused damage to the rotating mechanism and piping at the Wastewater Treatment Plant. The equipment is critical to efficient solids thickening prior to solids watering. This project includes the replacement of the failed skimming arm, feedwell influent pipe, supports and hardware, and center shaft support. Staff will reuse the existing motor and drive unit and will provide installation services. This item is budgeted in FY 2007-08 but has a 18-week delivery schedule. Due to the urgency of the repair, staff solicited bids believing they would be below \$20,000. The bids exceeded this amount. Three bids were received on the project: Westech, \$38,090; Eimco, \$48,352; and Walker Process Equipment, \$55,735.

Councilperson Van Dyke moved, seconded by Councilperson Brenneman to approve and authorize the Mayor to sign a contract with Westech for No. 1 thickener mechanism repair parts for a total of \$38,090.00. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. Motion carried.

No comments were received regarding the Police Division report for July 2007. Sales and use tax collection for the month of June 2007 was reported as \$510,834.38. No comments were received regarding the Works-In-Progress report for the period August 15 through 28, 2007. The reports were included in the agenda packets.

Councilperson Fauss moved, seconded by Councilperson Reeder to adjourn the meeting at 8:13 p.m. Roll call: Ayes: Councilpersons Coy, Lange, Van Dyke, Reeder, Brenneman, Fauss and Saunders. Nays: None. Absent: Wilson. 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 Tuesday, September 4, 2007, had and done by the Mayor and City Council; that all of the subjects included in the proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to the meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Elizabeth A. Deck
City Clerk

(S E A L)