CITY OF NORFOLK, NEBRASKA

The City Council of the City of Norfolk, Nebraska met in regular session in the Council Chambers, 309 North 5th Street, Norfolk, Nebraska on the 4th day of March, 2013, beginning at 5:30 p.m.

Following a moment of silence and the Pledge of Allegiance to the flag of the United States of America and in the absence of the Mayor, Council President Dave Fauss called the meeting to order. Roll call found the following Councilmembers present: Dale Coy, Jim Lange, Rob Merrill, Shane Clausen, Thad Murren, Josh Moenning, Dave Fauss, and Dick Pfeil. Absent: None.

Staff members present were: City Administrator Shane Weidner, City Attorney Clint Schukei, City Clerk Beth Deck, Police Chief Bill Mizner, Housing Director Sheila Miller, Wastewater Plant Superintendent Todd Boling, Park Superintendent Pat Mrsny, Information Systems Manager Jim McKenzie, Administrative Secretary Bethene Hoff, Water & Sewer Director Dennis Watts, Assistant City Engineer Mark Dolacek, Prevention Manager Trent Howard and Library Director Jessica Chamberlain.

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.

Agenda Motions

Councilmember Coy moved, seconded by Councilmember Merrill to approve the consent agenda as printed. Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried.

Councilmember Merrill moved, seconded by Councilmember Coy to adopt the regular agenda as printed. Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried.

Consent Agenda Items Approved

Minutes of the February 19, 2013 City Council meeting

Minutes of the February 23, 2013 City Council Work Session/Retreat meeting

Request proposals from local banks to provide the City with banking services for a four-year term commencing June 1, 2013

Water Connection Agreement with Elmer & Barbara Saltz, Gordon & Angela Saltz, and Mark & Sheila Saltz for connection to the City of Norfolk water system at 2201 North 49th Street

Bert Gurney & Associates bid for a raw lift pump at the Water Pollution Control Plant for a total of $23,800.00 to furnish all labor, materials, equipment and all else necessary to properly construct the project. Only one sealed bid was received at the February 4, 2013 bid letting.

Letter of no recommendation to the Nebraska Liquor Control Commission on the Class IK liquor license application of First Choice Food Service, Inc., dba First Choice Catering and Party Rental, 1110 South 9th Street, and the Manager Application of Brian J. Attema

Resolution No. 2013-5 releasing the East 5 foot utility easement of Lot 24 except the South 10 feet, Block 2, Berry Hill 15th Addition to the City of Norfolk, Madison County, Nebraska, being part of the SW 1/4 of the SE 1/4 of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska

Advertise for bids to purchase one Municipal Solid Waste Transfer Trailer for the Transfer Station

Special Designated Liquor License for Fine Wine, LLC, Jim's Fine Wine & More, 2001 Market Lane, to serve wine for an event hosted by Northeast Nebraska Economic Development District at the Norfolk Area Chamber of Commerce, 609 West Norfolk Avenue, on April 3, 2013 from 4:00 p.m. to 9:00 p.m. for a sampling/tasting reception

Special Designated Liquor License for Fine Wine, LLC, dba Jim's Fine Wine & More, 2001 Market Lane, Suite 200, to serve wine on March 21, 2013 at Time Square Event Center, 1905 Vicki Lane, Norfolk, Nebraska, from 5:00 p.m. to 9 p.m. for a sampling/tasting event

Special Designated Liquor License for VIN, Inc., dba Lloyd's Drug Mart, 2600 West Norfolk Avenue, to serve beer and wine on March 20, 2013 at the American Red Cross, 2612 West Norfolk Avenue, from 4:00 p.m. to 8:00 p.m. for a Norfolk Area Chamber of Commerce Business After Hours Reception

City of Stanton agreement with the City of Norfolk to provide building inspection services to Stanton

Bright Horizons Resources agreement for Survivors of Domestic Violence and Sexual Assault, to use Skyview Park for an awareness walk from 5:00 p.m. to 8:00 p.m. on Thursday, April 18, 2013, with a rain date of April 25, 2013

T*ina Kassmeier agreement* (doing business as Kelly's Softball Association) to use the softball fields in Ta-Ha-Zouka Park and Liberty Bell Park for practice and games for the 2013 softball season thru December 31, 2013

Norfolk Soccer Club, Inc. agreement (a Nebraska Nonprofit Corporation) to use the soccer fields located in North Pine Park and green space at Liberty Bell Park for practice days designated by the Park Superintendent from April 15, 2013 through October 15, 2013

Plans, specifications, and engineer's estimate on file in the City offices for Woodland Park Parshall Flume project and authorization for the City Clerk to advertise for bids

Bills in the amount of $1,136,717.60

Public Hearings and Related Items

Public Hearing
(zone change, Eatherton, 304 South 5th Street)

A public hearing was held to consider a zone change from O-D (Office District) to R-2 (One and Two Family Residential District) at 304 South 5th Street at the request of James and Karen Eatherton. Preventions Manger Trent Howard provided information to the City Council. The Eatherton's single family dwelling is zoned for an office district and this change will bring the property into compliance with its use.

On February 20, 2013, the Norfolk Planning Commission held a public hearing regarding the zone change at 304 South 5th Street. The City Clerk read the Planning Commission's recommendations for approval into the record.

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

Ordinance No. 5244
(Eatherton zone change, 304 South 5th Street)

Councilmember Coy introduced, seconded by Councilmember Merrill, Ordinance No. 5244 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. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5244 passed on first reading.

Councilmember Lange moved, seconded by Councilmember Murren, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. 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 Councilmember Lange moved, seconded by Councilmember Murren, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Council President then stated the question "Shall Ordinance No. 5244 be passed and adopted?"

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. 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. 5244 as required by law.

Public Hearing
(zone change, Mota Ambaji, Inc., 721 East Norfolk Avenue)

A public hearing was held to consider a zone change from C-3 (Service Commercial District) and R-1 (Single Family Residential District) to C-3 (Service Commercial District) at 721 East Norfolk Avenue at the request of Mota Ambaji, Inc. Preventions Manager Trent Howard provided information to the City Council. The business on this property operates as a motel but a fire damaged a portion of the property last fall making it uninhabitable. In order to rebuild, a rezoning needs to occur since the property is currently zoned C-3.

Al Rajaee, 1706 Eldorado Road, spoke in opposition to the zoning change and requested the City Council deny the request. Rajaee stated the motel is being operated as a long term stay facility and the residents are dumping trash on the Rajaee property.

Howard explained that the property damaged by fire is currently a non-conforming use and the request for a C-3 zoning is consistent with properties located along Norfolk Avenue. Howard stated issues with long term stay need to be addressed differently than a zoning change.

Councilmember Lange questioned the zoning change request and stated the current R-1 zoning won't allow for commercial use of the property. Lange questioned why the zone code regulations aren't being enforced on the property. However, Lange indicated elected officials should only be considering the zoning change request and keep personalities out of the issue.

Howard explained Permits & Codes Division staff interviews with people displaced by the fire indicate the property is probably being used as a long term stay facility.

City Attorney Clint Schukei stated the owner is aware the property can't be operated in the same manner as has been done in the past.

City Administrator Shane Weidner suggested elected officials look at the long term use of the property. Weidner stated residency issues are being addressed by the Permits & Codes Division.

On February 20, 2013, the Norfolk Planning Commission held a public hearing regarding the zone change at 721 East Norfolk Avenue. The City Clerk read the Planning Commission's recommendations for approval into the record.

No one else either in favor of or in opposition to the zone change and the Council President closed the hearing.

Ordinance No. 5245
(zone change, Mota Ambaji, Inc., 721 East Norfolk Avenue)

Councilmember Merrill introduced, seconded by Councilmember Murren, Ordinance No. 5245 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. Said ordinance was then read into the record by title by the City Clerk.

Councilmember Clausen moved, seconded by Councilmember Moenning to table consideration of Ordinance No. 5245 on first reading.

Roll call to table: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5245 was tabled.

Public Hearing
(zone change, Donn Fizer-Orange Development, Inc., CVS,
13th Street & Norfolk Avenue)

A public hearing was held to consider a zone change from C-1 (Local Business District), R-1 (Single Family Residential District), R-3 (Multiple Family Residential District) and C-3 (Service Commercial) to C-3 (Service Commercial District) in the southwest corner of 13th Street and Norfolk Avenue at the request of Donn Fizer-Orange Development, Inc., (CVS Pharmacy).

Tracy Buettner, 200 Bridge Road, attorney for Donn Fizer-Orange Development, Inc., spoke in favor of the zoning change. CVS is planning to purchase eleven (11) properties for construction of the pharmacy and will employ approximately 20-30 people. However, CVS is still working with the Nebraska Department of Roads (NDOR) on access to the property. Buettner stated CVS would like to have left-hand turns into the property to provide straight access to the drive-through portion of the pharmacy. However, the NDOR wants access as right-in/right out only. Buettner said CVS is requesting the hearing be continued and consideration of the ordinance be tabled until the March 18, 2013 City Council meeting.

Councilmember Lange moved, seconded by Councilmember Coy to continue the public hearing on the Donn Fizer-Orange Development zoning change request to the March 18, 2013 City Council meeting as requested.

Roll call to continue the hearing: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Motion to continue the hearing carried.

Ordinance No. 5246
(zone change, Donn Fizer-Orange Development, Inc.
13th Street & Norfolk Avenue)

Councilmember Coy introduced, seconded by Councilmember Merrill, Ordinance No. 5246 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.

Councilmember Merrill moved, seconded by Councilmember Lange to table consideration of Ordinance No. 5246 until the March 18, 2013 City Council meeting as requested.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Motion to table consideration of Ordinance No. 5246 carried.

Regular Agenda Items

Resolution No. 2013-6
(Richard E. Miller Subdivision final plat)

Councilmember Merrill moved, seconded by Councilmember Lange, to adopt Resolution No. 2013-6 approving the final plat and subdivision agreement for the Richard E. Miller Subdivision, a two lot subdivision located 1/2 mile south of Woodland Park on Eastwood Avenue.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Resolution No. 2013-6 was adopted.

Resolution No. 2013-7
(Richard E. Miller Subdivision sidewalk waiver)

Councilmember Merrill moved, seconded by Councilmember Murren, to adopt Resolution No. 2013-7 approving a sidewalk waiver for the Richard E. Miller Subdivision, a two lot subdivision located 1/2 mile south of Woodland Park on Eastwood Avenue.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Resolution No. 2013-7 was adopted.

Resolution No. 2013-8
(Dollar General Addition)

Councilmember Lange moved, seconded by Councilmember Coy, to adopt Resolution No. 2013-8 approving the final plat and subdivision agreement of Dollar General Addition located at the intersection of 1st Street and Norfolk Avenue.

Fred Franklin, surveyor for Dollar General, spoke in favor of Resolution No. 2013-8 approving Dollar General Addition.

Councilmember Moenning has concerns with aesthetics/façade of the proposed building.

Prevention Manager Trent Howard stated the Dollar General store building plans indicate the building will include a 10' section of stone/brick and efface on the store front (west side of building) and the east and west sides will have 40" to 48" of the same material. The north side will be metal only.

Roll call on Resolution No. 2013-8: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Fauss and Pfeil. Nays: None. Abstaining: Moenning. Absent: None. Motion carried. Resolution No. 2013-8 was adopted.

Sid Sudbeck Subrecipient Agreement, CR Grant
(810 South 8th Street)

Councilmember Coy moved, seconded by Councilmember Lange to approve a Subrecipient Agreement with Sid Sudbeck related to a City-owned lot which is being placed into a Community Revitalization Grant Program and deeding said lot, located at 810 South 8th Street, to Sid Sudbeck.

Housing Director Sheila Miller explained this is the sixth of seven lots the City has assumed with community revitalization funds and then sold to a developer. The developer will build a house on the lot and then sell it to a low-to-moderate income qualifying person.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried.

Ordinance No. 5247
(sale of property to Sid Sudbeck, 810 South 8th Street)

Councilmember Merrill introduced, seconded by Councilmember Lange, Ordinance No. 5247 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA, TO AUTHORIZE THE SALE OF CITY PROPERTY; TO PROVIDE THE TERMS OF SALE AND AUTHORIZE THE TO EXECUTE AND DELIVER A QUITCLAIM DEED TO THE PROPERTY;TO PROVIDE FOR A REMONSTRANCE TO SAID SALE AS PROVIDED BY LAW; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5247 passed on first reading.

Councilmember Lange moved, seconded by Councilmember Murren, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. 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 Councilmember Lange moved, seconded by Councilmember Murren, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Council President then stated the question "Shall Ordinance No. 5247 be passed and adopted?"

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. 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. 5247 as required by law.

Ordinance No. 5248
(Elkhorn Lodge, 1008 McKinley)

Councilmember Lange introduced, seconded by Councilmember Murren, Ordinance No. 5248 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 18-12 OF THE OFFICIAL CITY CODE TO CHANGE A REFERENCE TO AND DESCRIPTION OF THE ELKHORN CABIN TO THE ELKHORN LODGE; 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. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. Nays: None. Absent: None. Motion carried. Ordinance No. 5248 passed on first reading.

Councilmember Coy moved, seconded by Councilmember Lange, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. 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 Councilmember Coy moved, seconded by Councilmember Lange, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Council President stated the question "Shall Ordinance No. 5248 be passed and adopted?"

Roll call: Ayes: Councilmembers Coy, Lange, Merrill, Clausen, Murren, Moenning, Fauss and Pfeil. 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. 5248 as required by law.

There being no further business, the Council President declared the meeting adjourned at 6:38 p.m.

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Sue Fuchtman
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 4, 2013, had and done by the 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)