

## FINANCE COMMITTEE MEETING

The Finance Committee of the City of Norfolk, Nebraska met in the City's Conference Room, 309 Madison Avenue, Norfolk, Nebraska, on Monday, March 28, 2005, beginning at 7:00 a.m.

Mayor Gordon D. Adams called the meeting to order.

Roll call found the following Committee members present: Mayor Gordon Adams and Councilpersons Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, and Wisnieski. Absent: None.

Staff members present were City Administrator Mike Nolan, Public Works Director Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Property/Operations Manager Gary Miller, Information Systems Manager Jim McKenzie, Police Chief Bill Mizner, Water/Sewer Director Dennis Watts, Fire Chief Shane Weidner, and Prevention Manager Scott Cordes.

The media was represented by Susan Risinger, WJAG/KEXL; Greg Wees, Norfolk Daily News; and Brian Masters, KUSO.

Notice of the meeting was given in advance by publication in the Norfolk Daily News, and notice of the meeting was given to the Mayor and all members of the Council prior to the meeting.

The Mayor presided and the City Clerk recorded the proceedings.

The only item on the agenda was a discussion of **Telebeep's** installation of antenna and electrical at the City of Norfolk's water tower site.

Councilman Leshovsky moved, seconded by Councilwoman Saunders to approve the agenda as printed. Roll call: Ayes: Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wisnieski, and Mayor.

Mayor Adams prefaced the discussion by requesting the matter get resolved today regarding Telebeep's installation of antenna on the City's water tower.

Public Works Director Dennis Smith feels the discussion should be about relationships and how the issue came to this point and not so much about the merits of whether the electrical installation desired by the City, as the owner, is better or worse than the unapproved electrical installation by Telebeep. The City's number one interest for this site is to have a constructive relationship with all parties, tenants, and neighbors. The City's second most important interest is for the long-term effective management of this site including the following interests:

1. Maintain the police and fire antennas and related equipment for the 800 megahertz system
2. Safety for all individuals who need to work on the site: City of Norfolk employees and other tenants, as well as the neighborhood
3. Provide consistency and flexibility for installations on the site. This installation will set a precedent for future sites. (Smith stated there are a few additional spaces on the water tower that could be leased by various telecommunications companies.)

Smith stated it is important to remember the City of Norfolk owns the site and the Public Works Department has been given the responsibility to manage the site. Smith stated the tower has several tenants, RACOM, Nebraska Wireless, and Nextel. Smith stated all of those tenants had electrical plans approved prior to completion of the installations. Telebeep is also a tenant on the water tower through acquisition of a former tenant's assets. However, Telebeep moved forward with installation prior to having electrical plans completed and approved. Telebeep is not an owner of the site but is a tenant. Smith stated the City's Permits & Codes Division has a role at this site as a regulator to make sure installations are completed to whatever code is applicable. Smith stated the codes are minimum requirements. Smith explained all other installations have meter sockets located relatively close to their equipment. The Nebraska Wireless meter is next to their equipment pad and Nextel and Racom's are mounted on the side of their buildings.

Smith explained that, in an attempt to avoid the miscommunications that occurred, the Public Works Department, on numerous occasions, requested electrical plans be submitted and approved prior to any installation. Smith distributed a copy of the various dates and language provided to Tom Schommer for those requests, as follows:

January 21, 2005 Letter to Tom Schommer from Dennis Smith

*"First please provide a drawing showing how the electrical service will be routed to your proposed facility."*

January 31, 2005 Letter to Tom Schommer from Dennis Smith

*"Please provide the same level of detail, complete with dimensions, showing the proposed routing for your electrical service."*

February 7, 2005 Letter to Tom Schommer from Dennis Smith

*"Feel free to contact Dennis Watts, the Water and Sewer Director, for access to the site for gathering the information needed to complete your plans as it relates to electrical service for your facilities. This access is for fathering the data necessary to complete your plan. Construction should not occur until complete plans have been approved."*

March 9, 2005 Letter to Tom Schommer from Dennis Smith

*"Work on the electrical system should not begin until you have provided us detailed plans and we have had opportunity to approve them."*

March 11, 2005 Memo to Dennis Smith, Gary Miller, Jim McKenzie and Tom Schommer RE: Telebeep Addendum Agreement

*7th Whereas, "WHEREAS, before TELEBEEP replaces the existing shared power source, TELEBEEP will need to provide detailed, to-scale routing plans which shall be submitted to and approved by CITY and authorized as part of this agreement before installation occurs. Subsequent to the signing of the addendum, the approved plans shall be attached hereto as part of Exhibit "B" and referred to as "Exhibit B—Attachment 2"."*

March 17, 2005 Fax to Jeff Jones Model Electric w/cc: Tom Schommer

*"The plans also need discussion of your plans for restoration of the existing matting and aggregate surfacing. Please do not proceed on any electrical installation until detailed legible drawings have been submitted and approved."*

Smith stated that at approximately 10:00 a.m. on Thursday, March 17, 2005, Dennis Watts stopped at the water tower site and Model Electric was working on the electrical installation. Watts inquired as to what Model Electric was doing and received some background information. Watts contacted Smith about the work being performed. Smith told Watts electrical plans had not yet been received and approved for the project. Smith requested Watts ask the contractor to stop work until plans had been received and approved. At about 11:15 a.m. on March 17, Smith received faxed plans from Telebeep to Model Electric; however, the plans were illegible because of reduction of the plan for faxing and also the fax itself. At about 12:00 on that same day, Smith faxed a response to Jeff Jones of Model Electric and Tom Schommer of Telebeep requesting the work be stopped until detailed, legible plans were received and approved by the City, as follows:

*"The drawing is illegible due to apparent size reduction. The Plan needs to be detailed showing the location and description of all equipment being installed. My March 9, 2005 letter to Mr. Schommer provided as follows: 'Work on the electrical system should not begin until you have provided us detailed plans and we have had opportunity to approve them.'*

*The plans also need discussion of your plans for restoration of exiting matting and aggregate surfacing. Please do not proceed on any electrical installation until detailed legible drawings have been submitted and approved."*

Smith explained that about 2:00 p.m. on March 17, Watts returned to the site and Telebeep's unauthorized electrical work was continuing and about 80% completed. Watts asked Tom Schommer if Telebeep's electrical plans had been approved. Schommer said that "he had a crew on site today and, due to good weather, he was not going to stop and do plans to make Dennis Smith happy."

At that time, Smith had already made an offer to Schommer to have the Finance Committee review the situation and the item was placed on the March 21 Finance Committee agenda for review.

Dave Copple, present on behalf of Tom Schommer, stated Schommer will distribute a written statement at the conclusion of the meeting.

Tom Schommer, Telebeep, spoke about relationships and how the issue has evolved. Schommer stated discussions about space lease on the City's water tower have been going on for over three (3) years. Schommer stated a meeting was held on March 18, 2004 with City staff and Purchasing Agent Gary Miller made the statement that there isn't any more space left on the water tower to rent. Schommer was concerned about the statement because it is inconsistent with Smith's comment about additional space on the tower that could be leased.

(Note: Miller addresses Schommer's comment later during the meeting.)

Schommer thanked the City Council for the opportunity to provide information to assist in determining how to resolve the existing issue regarding electrical service at the Telebeep Wireless Internet site located on the City's water tower. Schommer was notified at 4:30 p.m. on Friday, March 18, about this item appearing on the March 21 Finance Committee meeting agenda. Schommer agrees that Smith "introduced the idea on Thursday, March 17, of meeting with the Finance Committee" but Schommer said Smith only indicated that "maybe we should bring this" before the Finance Committee but there wasn't any indication it would on the following Monday.

Schommer said statements made by Smith at the March 21 Finance Committee meeting do not accurately state the facts. Schommer said Smith's statement about requesting electrical plans six times from Telebeep without success is not the truth. Schommer states the facts as follows:

January 22, 2005: Telebeep first received a request for electrical plans from Dennis Smith. It read as follows: "*Please provide a drawing showing how the electrical service will be routed to your proposed facility.*"

January 27, 2005: Telebeep provided Smith with a modified "Site Layout" which included the NPPD recommended routing of electrical service. The letter stated, "*This of course, will ultimately be determined once locate service has been performed and the area is properly marked.*"

February 1, 2005: Telebeep received a request from Dennis Smith for "more detail" with respect to the electrical service routing. Mr. Smith stated, "*I understand this may necessitate you having the existing utilities located on site to determine whether your proposed routing is feasible.*" Schommer feels this acknowledges response to Smith's request for electrical, contrary to Smith's claim last week that the request was made six times without success.

February 2, 2005: Telebeep sent a letter to Smith stating they will proceed with a locator service in an attempt to provide Smith with the additional detail requested. In the letter, Telebeep requests Smith provide a key to the gate.

February 8, 2005: Telebeep receives a letter from Smith requesting Telebeep contact Watts provide access to the water tower site. Schommer says, 'Smith did in fact state' that "*Construction should not occur until complete plans have been approved*".

Schommer felt "complete plans" meant both electrical and non-electrical. This put a halt for Telebeep to proceed with any electrical requirements in terms of getting additional detail because there was an on-going issue "that Mr. Smith and I have had for quite some time" with regard to a structural analysis. Schommer felt there wasn't any need to move forward with providing additional electrical because it wouldn't do any good until all plans were approved. Schommer felt the "unnecessary requirement by Mr. Smith" for a structural analysis probably needed to be done or the project wouldn't move forward. Telebeep was proposing to replace a device on the water tower that weighed over 10 pounds with a device that weighed 6 1/2 pounds. Schommer realizes, however, that surface area does play a role in structural stress. Schommer feels this issue is no longer an electrical issue but a personalization issue. Smith required a structural analysis on Telebeep's equipment without looking at specs. Schommer personally does not understand the reasoning behind the request except for personalization of the issue.

February 24, 2005: Telebeep sends a letter to Dennis Smith stating, *“I have come to the conclusion, like many others in Norfolk, that if I don’t comply with your requests, as ridiculous as they may seem, that my project will not proceed.”*

Schommer felt that either Telebeep must comply with Smith’s request or the project wouldn’t move forward. Telebeep “gave in” and had a structural analysis performed by the same firm that performed the Nextel structural analysis. The review indicated that no additional reinforcement is required. Schommer indicated Telebeep would continue to work with the City regarding electrical service routing at that time because Schommer felt confident the structural analysis issue is resolved.

March 10, 2005: Telebeep receives a letter from Smith authorizing all of the work at the water tower excluding the electrical system.

Schommer understands the electrical is “Dennis’ point of contention.”

March 11, 2005: A meeting to firm up the electrical detail was held at the water tower including representatives from Telebeep, City Water Department, City Electrical, NPPD, and a local electrical contractor. The group had several discussions regarding electrical service and walked through the route.

Schommer’s first idea was to locate the electric meter by the NPPD service. Schommer started “joking with the gentleman from NPPD” who said Schommer was “being too cheap about it and why don’t you move it down by where the City wants” since it shouldn’t cost too much more. Schommer didn’t have a problem locating the meter where the City wants if it wouldn’t cost substantially more. At that time, Schommer wasn’t able to discuss the cost of the project with the electrical contractor that day. It was generally understood that the electrical line could be trenched in and Schommer agreed that if the line could be trenched in there wouldn’t be a significant amount of additional cost in going deeper and burying two conduits as opposed to hand-digging shallow and burying electrical wire.

March 14, 2005: Schommer had a “pleasant” discussion “as I always do when I talk” with City Attorney Clint Schukei. Schommer said Schukei was very professional during the discussion. Schommer stated Schukei thought it would be ok to proceed with the project as long as Telebeep representatives met with the necessary City staff to determine the route for electrical. Schukei said Schommer needed to provide Smith with a copy of the routing for the file for future reference. Schukei also requested a copy so it could be attached to the Addendum Agreement as Exhibit B-Attachment 2. Schommer told Schukei the electrical would be hand dug because the City isn’t sure “what is underground up there” and Telebeep would ask the City for additional drawings. Schommer stated digging can’t just begin without knowing what is underground. Schommer said a drawing was provided to Smith and Schukei.

Mayor Adams questioned Schommer about the date a drawing was provided to Smith.

Schommer stated the detailed plan was mailed to Smith on March 18.

Mayor Adams questioned whether that plan was provided **after** Telebeep started digging on March 17.

Schommer stated the detailed plan was provided to Smith after March 17.

Jeff Jones, Model Electric, differs with Smith’s opinion about the electrical plan. Jones stated the electrical plan has been approved by the City’s electrical inspector to the point of waiting for final approval. Jones has not been involved with Telebeep’s lease agreement for the tower space which required the electrical drawing. Jones attended the 2:00 p.m. March 11 meeting. At that time, Curt Morris, Model Electric, recorded the routing and information discussed on a sketch to be used for the installation. The main concern was the routing. There wasn’t any mention of specifics, such as meter requirements. After that meeting, Schommer requested Model Electric “get going” on the project. Model Electric contacted the underground hotline locator. A “call to meet” was scheduled for 9:00 a.m. on March 15. At that time, Jones said NPPD and Qwest located their utilities. Schommer, Watts and two other city employees were also at the site. Jones said “Morris kind of” measured out the route to be used for the electrical. Watts gave a preliminary indication of the concrete base surrounding the center pipe of the water tower.

Schommer questioned why two 2" conduits were necessary at a minimum depth of three feet for a 200-amp meter when the equipment only requires 2 amps and 120 volts. Jones and Schommer reviewed the present location of existing meters and determined relocating the meter adjacent to a power pedestal would be more cost effective and reduce conflicts with existing utilities and unlocated private lines. In addition, the route could only be hand dug. Jones said there are more private lines than utilities lines on the water tower site. Model Electric cleared the rock and hand dug the trench. Jones stated that "after all parties involved agreed to the meter relocation" the routing remained as previously discussed. On March 16, Model Electric proceeded to order materials based on this installation and work began on March 17. Jones said Smith arrived after Model Electric started work and advised Model Electric to stop installation until a drawing of the installation had been sent for review and approval. Model Electric stopped the installation, took the Nextel drawing, made the measurements on the drawing and the drawing was delivered to Model Electric's office. The drawing was then faxed to Smith and Schommer's offices.

On March 18, 2005, Model Electric called Willie Nelson, the City of Norfolk's electrical codes inspector, to inspect the underground wiring. The wiring was approved and the trench filled. NPPD inspected and approved the service portion of the installation. On March 21, Model Electric was informed that the Finance Committee issued a stop work order on the installation. Jones stated Model Electric's work was essentially finished except for final inspection to put an outlet in Telebeep's box and plug in the meter. Jones stated Watts attended the March 15 meeting but never requested a drawing be provided prior to the beginning of the installation. Jones feels Watts should have mentioned the need for a drawing to those parties present at that meeting and this problem could have been averted.

Jones stated the electrical installation is installed in accordance with the National Electrical Code. That compliance insures safety for all parties involved. Jones believes there are a substantial number of private lines installed under the water tower and any future installation that may occur will cause congestion. Jones stated anyone installing lines in the future will need to contact a digger's hotline and get maps from the various parties involved. Jones stated any digging will need to be done by hand because there isn't any way to get conduit installed because of the congestion. Jones stated the City has four private lines on the site that can't be located. Jones doesn't feel there is anything Model Electric can do to insure any level of safety—"this installation is safe" regardless of whether the City or another lessee digs on the site. Jones proposes putting a warning tape on top of the wiring to provide another level of protection. Jones feels communication on the forefront wasn't relayed to the parties involved.

Schommer continued with coverage of the timeline outlined by Schommer. Schommer pointed out several pictures showing where electrical lines "will never be located" at the water tower site. Schommer feels this issue has become "way too personalized". Schommer provided a drawing of the plan "although not of the detail that Smith would later require" at a meeting back in January. Schommer provided "a very casual drawing because I didn't know what he exactly needed." Smith showed Schommer the Nextel drawing as an example of a plan. Schommer requested Smith provide the detail and requirements needed for the project. Schommer stated Smith replied, "That is your job to do. You submit the plans to me and I will accept them or reject them." Schommer then stated, "It doesn't look like this project is going to be pleasant." Schommer feels the problem is broader than the location of an electrical meter.

Copple feels this is an excellent opportunity for the Finance Committee to demonstrate constructive relationships and Telebeep should not be held to a higher standard than Nextel, Racom or any other company or private line with respect to burial of private electrical wiring. Copple requests the Finance Committee seriously consider lifting the stop work order and to seriously consider permitting the work to get final approval to be able to put this matter to rest. For the benefit of constructive relationships, Copple requests the Finance Committee take those actions today so the issue can be resolved.

Smith stated it is important to remember that at this site the City of Norfolk is the owner and Smith has been given the management responsibilities for the site. Smith acknowledges the City's electrical inspector approved the installation but it was approved from a regulatory standpoint. The fact still remains that Smith has not been provided a complete set of plans with the detail that was requested in the March 17 fax and that as the owner and manager of the site there may be different requirements on installations. What Watts believes was agreed to on March 17 is different than what Schommer and Jones believe. Watts believed the meter was going to be located on the water tower leg. Had the drawings with the detail been approved prior

to the electrical installation, communication could have been worked out before any additional work was done on the site. Smith stated the City tries to minimize the amount of lines that don't get located on the site and that is one of the reasons for putting the meter under the water tower because NPPD will locate the line to that point. Most of the lines that Schommer stated are unable to be located are in confined spaces. Part of Telebeep's electric line is not in a confined space. Smith pointed out that the City's installation was there when the site was being used only as a water tower and not as an "antenna farm." Smith requested the Finance Committee keep in mind what the difference in installation is from what the City requested and what Schommer installed. It was the need to put in 2-2" conduits and bury them one foot deeper than what Telebeep actually buried. Telebeep would actually probably have had some decrease in cost because NPPD would have run part of the wire.

Property/Operations Manager Gary Miller clarified Schommer's earlier comment about the tower space being completely leased. Miller stated the comment made last year related to the top above the bowl portion of the water tower. All of those available spots are leased. Schommer (Telebeep) purchased Web Unwired's spot on the tower. Miller stated there isn't any more space available for lease on the top of the bowl of the tower.

Councilman Brenneman questioned whether Model Electric encountered any unlocated electrical lines while digging.

Jones did run into unlocated electrical lines. Model Electric had to hand dig "around quite a few things." Jones stated the 2-2" conduits would need to be buried at a minimum of three (3) feet. One of the reasons Telebeep moved location of the meter and buried it only 18" deep is so the wire wouldn't conflict with the other lines located on the property. Model Electric wanted to stay away from digging around or the liability of hitting one of the other lines.

Councilman Fauss questioned whether the City has maps of "all the other lines he's finding".

Smith stated the City does have a lot of plans of installations for the site, but Smith doubts whether the City has a map of all installations. City staff has learned more along the way, as additional tenants use the property, and that is probably why more information is requested with each new tenant. With 20/20 hindsight, Smith stated the City should have required detailed plans completed by an engineer on every installation at the site and also should have required as-built drawings signed and sealed by an engineer.

Fauss questioned why the City doesn't have plans for all the wire buried at the site. Fauss questioned, "How can that possibly be. Is no one watching that? Do people, who are up there now, just do whatever they want?" Fauss said, "You guys meet up there all the time and he can't do what he wants but you got people already renting this place and they are burying stuff that can't be buried and nobody knows where any things at? That's not right."

Smith stated to a certain extent that is what happened last week.

City Administrator Mike Nolan stated all of this discussion could have occurred before the line was trenched. Nolan talked to Willie Nelson who says the safest way to complete the project is a circuit breaker and the conduit. Nolan stated electrical inspection is an art, not a science and Smith is trying to manage it as effectively as possible in terms of installations occurring at the site now.

Councilman Wisnieski questioned whether all of the parties met several times on the water tower site and did the walk through.

At the site meeting, Water/Sewer Director Dennis Watts understood the meter socket would be located under the water tower. Watts didn't bring it up again because the last comment made on that Friday was that the meter socket was going to be installed under the tower. Watts stated Smith requested detailed plans on 5-6 different occasions to no avail. Watts stated a route is a very small part of a plan. Watts was at the site 2-3 different times but the City has not received legible plans as requested.

Schommer stated Smith and Watts both continue to indicate electrical plans have not been "turned in". On March 18, electrical drawings were provided to Smith and Schukei to attach to the Addendum Agreement. Schommer doesn't know whether or not the drawing has been approved.

*(Note: Digging at the site began on March 17.)*

Jones stated Model Electric spotted the meter at the “call to meet”. Jones stated Watts showed Model Electric the concrete bases for the center pipe to avoid them. Jones doesn’t know “how he could have misunderstood” the location of the meter.

Nolan stated technology is one component, relationship is one component, and the process that involves management of the site by the Public Works Department is one component. Nolan stated the Public Works staff said where they preferred to have the meter located but Telebeep ignored the request and did trenching and installation of the electrical wire. On March 23, Smith and Schukei had a conversation with Schommer to try to get everyone’s interests accommodated and Schommer’s interest was to get the installation completed so the business could “get up and running” and Smith’s primary interest was to get the work completed as initially requested. Smith had conversations with Schommer “to try to make you whole” but Schommer said “that wasn’t the issue.” Nolan stated there is about a \$2,800 difference between what Schommer wanted installed and how Smith wanted the line installed. Amortized over 10 years the money doesn’t amount to very much in economic terms.

Schommer stated “that is a significant amount of money to me.”

Nolan stated this conversation should have occurred weeks ago before installation was started.

Jones stated the City never gave specifications about wanting two conduits buried.

Nolan stated the agreement approved by the City Council specifically said the electrical plans would be approved before installation occurred.

Schommer told Watts on March 17 that “there may be a simple misunderstanding of what’s going on. Would you ask Mr. Smith to give Mr. Schukei a call and Mr. Schukei can say either (a) Schommer’s crazy in what he’s saying or (b) what Schommer says is fact.”

Nolan questioned why Schommer started dealing with Schukei instead of Smith.

Schommer was confident about the letter received back from Smith saying Telebeep could move forward with everything except electrical. The conversations with Schukei related to the Addendum Agreement. Schommer was under the impression that electrical drawings needed to be submitted. After the conversation with Schukei, Schommer was under the impression that if Telebeep provided an “as built” that was sufficient. Schommer requested Watts have Smith call Schukei about the conversation. Schommer wanted to go on record of “not putting any blame on Mr. Schukei.” Schommer feels “we are here today because of a bunch of fragmentation of communications.”

Nolan feels “we are here today because of a deliberate desire on your part to not give” Smith the electrical drawings as requested. Nolan stated the City has offered “to make everybody whole”.

Schommer questioned whether to go on record about the proposal.

Mayor Adams stated Schommer could reveal the proposal.

Schommer stated, “The City has offered Telebeep a \$1,500 credit off our account towards resolving this matter and then us going back and digging it in accordance to what Mr. Smith now makes clear is his requirement. These requirements were not given to us prior to our discussions, they were simply discussions. My comment back to the City with regard to the \$1,500 abatement was I didn’t feel that was a constructive use of taxpayer dollars. I don’t expect the citizens of Norfolk to fund my project. I feel I would be selling out my soul to the City if I accept that offer. In addition to that, I would have to spend \$2,800 more and that is the whole purpose of where we’re at today.”

Councilwoman Kaspar-Beckman questioned whether Smith has expected and received the exact materials from the other three entities with antennas on the site that are being requested from Schommer.

Smith has requested and received the same materials from the other entities. As the City moves forward, each set of drawings have become more detailed. Smith showed the Finance Committee the information received from Nextel. Nextel provided a full structural analysis of

the whole site and a very detailed set of drawings.

Kaspar-Beckman questioned whether Smith is requesting more from Schommer than from Nextel.

Smith stated the City is requesting far less from Schommer (Telebeep) than what was received from Nextel. Nextel had the plans done by a professional engineer who signed and sealed the documents. In January, Schommer told Smith that Telebeep didn't have engineering staff to do the work. Smith told Schommer it would be acceptable to provide in-house drawings that were legible and to-scale. Telebeep's entire approved work for the project, without electrical, is only 3-4 pages long; however, the work was detailed with a legible drawing and picture. It was this letter that drew Smith's attention to the fact that the antenna installation was being located at the same place as one of Nextel's. Since Nextel had said they needed to provide some additional reinforcement to the brace, the City requested Telebeep provide a structural analysis of the handrail only, not of the whole tank.

Schukei referred to the March 9 letter to Telebeep that authorized going ahead with the project on everything except the electrical. It was known since that time that several items in the original agreement would be changed by an Addendum Agreement. Since the City did not yet have the electrical plans, the Addendum contained a provision stating the agreement could be approved and approved electrical plans would then be attached when the "detailed, to-scale routing plans" for the electrical were received and approved by the City. From Schukei's prospective, the group was talking in broad terms about the Addendum Agreement at the March 14 meeting. Schukei did not approve any routing or electrical plans at that time. Schukei was trying to communicate the need to get together with the City to get the necessary electrical plans approved. After the March 23 meeting at the site, NPPD is required to follow national codes for installation of their live wire. NPPD is required to bury wire 36" deep and in conduit. NPPD requires wire be put in conduit and buried 36" deep for wire to the meter socket. NPPD also requires 2-2" conduit as long as the trench is open to allow for future installations/repairs. After the March 11 meeting, NPPD sent a letter to Jones discussing NPPD's installation requirements. In that letter to Jones, NPPD was expecting Telebeep's meter to be located under the water tower. Schukei said Jones then called NPPD and said locating the meter under the water tower was going to cost too much.

Nolan questioned whether it is correct to conclude, from the conversations with NPPD, that Telebeep representatives knew, as a consequence of NPPD knowing, where the route was supposed to go and they chose to move it to a different location because of cost.

Schukei stated the "route" is not the issue. Schukei feels the same route was taken. However, Schukei said Model Electric placed the wire in a hand-dug trench that is 18" deep and the meter is located in the northeast corner of the site. Schukei feels the cost difference is the cost of digging the trench. The City's electrical inspector stated the cost of wire is about \$30 and the cost of the conduit is approximately \$100. Schukei understands cost difference to go from the 18" to the 36" depth is \$1,500 to \$3,800.

Jones stated there would also be extra cost because of long-radius elbows, termination, expansion joints, etc.

Nolan questioned whether cost maybe wasn't a concern for Telebeep.

Schommer requested Nolan quit making reference back to Telebeep's interest since "this is our first conversation about this."

Councilman Van Dyke feels the City Council has received all the information needed to make a decision. Van Dyke feels the issue is safety and if NPPD lays the wire it will be 220 volt. Van Dyke feels "we are just as safe here with the low voltage wire in an 18" trench." The important thing is that the City has a drawing that shows the exact placement of the wire for Telebeep and city officials need to find out where the other wires are located. Van Dyke proposed allowing Telebeep to finish the project and have Model Electric provide an exact drawing as to location of the buried wire.

Jones stated Model Electric buried a three wire, 120V line. The line is buried 18-24" deep.

Fire Chief Shane Weidner stated the minimum bury is 24". Weidner isn't sure the trench is 24" deep.

Jones corrected his previous statement and said the line is buried about 18" deep with 6 inches of rock. Jones stated the rock is considered the finished grade.

Weidner stated the Codes Division approves minimum requirements and sometimes owners may be required more than the minimum requirements. The City did try to go the extra mile in trying to effectively manage the site by requiring the wire be buried in conduit. Conduit makes changing wires, etc. much easier in the future and doesn't further disturb the site. Weidner feels the City Council needs to be responsible for future generations.

Jones feels the City needs to provide a list of requirements for projects.

Mayor Adams stated the City should not have to provide a list of requirements. The City does, however, have "a whole stack of papers showing requests for detailed electrical plans from Telebeep."

Jones stated Model Electric was only concerned about the routing and did not know the meter came into question until Thursday, March 17.

Mayor stated that if the detailed electrical plans had been submitted and approved Model Electric would have known.

Jones wasn't aware there were any plans required until March 18.

Mayor Adams stated Schommer knew the plans were required and had been requested numerous times.

Schommer stated "I did not, Mayor."

Van Dyke has a concern that the citizens' perception is that contractors are unhappy with the City's inspectors. After "listening to this thing, I guess I understand sometimes why they are." Van Dyke isn't saying Schommer was right in not getting the City a better plan upfront but Telebeep is saying the City didn't provide any guidelines for the plans. If Code says the trench needs to be 24" deep and it doesn't have to be in conduit then it should be ok. If the City was going to require something different than Code then Telebeep and Model Electric should have been told ahead of time.

Councilman Leshovsky stated Telebeep should have submitted detailed, legible plans to the City for review.

Van Dyke feels it puts Telebeep in a difficult position as to whether the plans should conform to Code or some other requirement.

Councilman Van Dyke moved, seconded by Councilwoman Kaspar-Beckman to require Model Electric provide an exact drawing as to the location of the buried wire and to allow Telebeep to finish the project to be able to put this thing to rest.

Mayor Adams questioned what the minimum is that the City can be expected to approve and also Schommer's position.

Schommer requested the Council vote "as to what their desire is". Schommer would also like to be operational in two (2) hours.

Smith would like the meter installed under the water tower as indicated. Councilman Fauss requested everyone agree on the project. Smith stated that was tried on several occasions; however, Schommer had different ideas as to what was going to be done. That was the reason for the request for this to be put into writing ahead of time. It was very clear that the plans needed to be in writing and there needed to be some detail, similar to Schommer's detailed drawing of the antenna installation. Smith requested the same detail on the electrical installation prior to any installation occurring. Smith believes the City will be in a better situation if more lines can be located by a public service locator.

Councilman Wisnieski's biggest concern is that the City did not provide specific guidelines for Schommer to prepare the electrical plans. Wisnieski feels the City should have provided specifics, in writing, to Schommer. Wisnieski feels Model Electric won't do anything blatantly

against Code requirements.

Smith pointed out that Schommer's own press release stated, "*It was generally preferred that the meter would be mounted at Telebeep's equipment box*" under the tower.

Schukei feels the whole issue is where the meter is located. If the meter is located under the water tower there aren't any City electrical issues because NPPD will bury the line 36" deep and in conduit.

Watts stated plans should cover everything related to the project including replacement of the vegetation mat and rock.

Wisnieski does not argue the fact Model Electric probably didn't use the best practices when digging the trench, such as laying down plastic before throwing dirt on the rock. However, the City didn't say plastic should be laid first and the rock replaced over the trench.

Jones stated Model Electric will clean up the site and put down warning tape under the matting.

Watts explained an electrical plan would be specific about the vegetation matting and rock. However, Schommer did not provide a detailed plan to the City.

Jones stated Model Electric was only concerned with the routing and not the meter. Jones doesn't feel anyone was concerned about the meter until Thursday, March 17.

Van Dyke would like the Council to vote on the motion. The discussions can continue if the motion fails. Van Dyke doesn't see a safety factor involved with leaving the project as is.

Councilman Lange requested clarification of the issue. Lange questioned the power voltage for the project. Lange questioned whether the line is protected at the meter socket and the size of the amps.

Jones stated the power voltage is 120, the line is protected at the meter socket and the amp will be either 15 or 20. The meter is wired for 20 but can be reduced to 15 since Telebeep only needs 2 amps.

Lange questioned why an overhead line was never considered and why Telebeep didn't use available poles for an overhead line.

Smith explained there is one overhead line that was installed years ago that serves the City's needs. There is also an overhead fiber optic line for the City's telephone system. Smith stated Lange's question goes back to the City requesting detailed plans be approved prior to installation.

Lange feels none of the parties involved "looked outside the box."

Roll call on the motion: Ayes: Councilmembers Kaspar-Beckman, Brenneman, Fauss, Lange, Saunders, Van Dyke, and Wisnieski. Nays: Leshovsky and Mayor. Absent: None. Motion carried.

Mayor Adams raised the issue about Councilman Wisnieski voting. Adams stated Wisnieski is a subcontractor for the Telebeep project and has a conflict of interest. Adams questioned whether Wisnieski agrees.

Wisnieski stated "No".

Councilman Van Dyke moved, seconded by Councilwoman Kaspar-Beckman to adjourn the meeting at 8:28 a.m. Roll call: Ayes: Council members Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wisnieski and Mayor Adams. Nays: None. Absent: None. Motion carried.

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Elizabeth A. Deck  
City Clerk