

## 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, September 6, 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 Wilson. Absent: None.

Staff members present were City Administrator Mike Nolan, Public Works Director Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Fire Chief Shane Weidner, Housing Director Sheila Miller, Housing Development Manager Gary Hilkemann, and Housing Coordinator Charles Bronson.

The media was represented by Jerry Guenther, Norfolk Daily News, and Jim Curry, WJAG/KEXL.

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.

Councilman Leshovsky moved, seconded by Councilman Van Dyke to approve the agenda as printed. Roll call: Ayes: Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wilson and Mayor. Nays: None. Absent: None. Motion carried.

The Finance Committee discussed proposed improvements to old Highway No. 8 located by **GreenFiber**. Staff recommends moving forward with an agreement between the City of Norfolk, Madison County and Stanton County for improvements to the road. On August 29, 2005, City Administrator Mike Nolan met with Stanton County Engineer Mark Mainelli, Madison County Engineer Dick Johnson, and Public Works Director Dennis Smith to discuss the improvements and available resources. Nolan explained an EDA grant was previously available to GreenFiber for the project but GreenFiber would not sign the forms and the grant application period expired. GreenFiber is once again requesting Stanton County pave the road. At the August 29 meeting, Mainelli felt it would be better to pave the entire road (1.3 miles) in the spring of 2006 rather than only from GreenFiber's driveway to the highway. Nolan explained the State of Nebraska will provide millings for the project.

Nolan stated points of interest discussed on August 29, 2005 are:

1. Do the entire road (1.3 miles) in the spring of 2006 rather than the current plan from GreenFiber's driveway to Highway 24.
2. Madison County will contribute labor and the use of a Bomag machine and labor for construction of the entire 1.3 miles. In consideration, Madison County will receive one-half of the millings remaining after the project.
3. Stanton County will obtain the millings from the State of Nebraska and pay for the grinder and oil or flyash that is incorporated into the Bomag process.

Cost of the project is estimated at \$506,893 with Madison County contributing \$22,500 (in-kind services); Stanton County contributing \$361,357; and the City of Norfolk contributing \$123,036. Nolan stated the City of Norfolk budgeted less than 1/2 of the \$123,036 but money from the gasoline tax will fund the project.

Councilman Van Dyke moved, seconded by Councilwoman Kaspar-Beckman to approve and move forward with the improvements to old Highway No. 8 by GreenFiber as discussed. Roll call: Ayes: Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wilson and Mayor. Nays: None. Absent: None. Motion carried.

The Finance Committee discussed a proposed resolution approving Supplemental Agreement No. 1 with the Nebraska Department of Roads (NDOR) for construction of a four-lane divided roadway on **Highway 35** from Highway 275 to Norfolk Avenue. The NDOR has designated the project as Project No. STPD-35-3(105). The supplemental agreement provides for the City to

maintain the frontage road and connector road. The NDOR agrees with the intersection closure. The City's 20% share of the project cost is estimated at \$332,468.68 with the total estimated project cost within the City's corporate limits at \$1,662,343.00.

Councilwoman Kaspar-Beckman questioned the location of the "new connector road". The agenda packet included several maps of the proposed project. The first map shows the connector road located north of East Park Avenue, the second map (Exhibit "D") shows the road located south of East Park Avenue and the third map is consistent with the first map. Kaspar-Beckman understands the intersection in front of the Church of Latter Day Saints (where south Victory Road and Channel Road connect) will be closed. Kaspar-Beckman understood South Victory Road will no longer be a through street. Kaspar-Beckman is concerned as to the location of the new connector road because the access road may generate more traffic depending on where the road is moved.

Public Works Director Dennis Smith stated the intersection by the church will be closed. The original design also closed the access road on the east side of the highway to the Amberwood apartment complex. However, the Department of Roads decided access to the apartments will not change. Smith stated this proposal will generate less traffic cutting across to Omaha Avenue. Smith stated the first and last maps included in the agenda packet have the correct location of the access road. The connector road will be located farther north than East Park Avenue.

Kaspar-Beckman questioned whether the City will be paving South Victory Road to Channel Road. Kaspar-Beckman questioned when the project is scheduled to begin.

Smith explained a connector road will be completed but Channel Road and Victory Road will remain where they are today. Smith stated the connector road is part of the highway project and no paving district will be created. Smith stated the project letting will be in late 2006 or 2007. Smith will get an updated map for Exhibit "D" to Supplemental Agreement No. 1.

This item was for informational purposes only.

The last item discussed was the **Oak Street** project.

City Administrator Mike Nolan stated the City needs to move forward with the Oak Street project. Nolan questioned the status of the Jones' house and any other issues with Joel and Denise Dendinger.

Housing Development Manager Gary Hilkemann stated access to the Jones' property is in place and the basement hole dug for the new house.

Joel and Denise Dendinger were present at the Finance Committee meeting. The Dendinger's received a contract from the City about a month after the May 2, 2005 Finance Committee meeting "where we agreed on where the street was going to be". Dendinger showed a map that came with the agreement and "things aren't measuring out right". Dendinger contacted Dennis Smith with the concerns "because the Jones' house was already staked out and it was too close to the street." Dendinger said it turns out that the right-of-way, in this case where the street is going to be, will be 10 feet on the Jones' side and 10 feet on Dendinger's side. Dendinger questioned Smith as to why the difference and Smith said the reason the city did that is to save Dendinger's trees. Dendinger's question has been and continues to be "why" since Spruce Street was moved 5 feet. Dendinger said right-of-way stays straight but the street jogs. Dendinger questioned why the right-of-way wasn't moved with the street angle. The only answer Dendinger received from the City was "we're trying to save your trees". Dendinger said "it's probably not a big deal but it is a big deal to us because we own the property to the east of the new Spruce Street." Dendinger questioned whether the 20 foot right-of-way stays on "my side of the street" and was told "no, you can move it". Dendinger wants the right-of-way moved now and "get it right on both sides". Dendinger said the new Oak Street has 15 foot right-of-way on both sides as do most streets in Norfolk." Dendinger wants the right-of-way to "be what it is on every other street in Norfolk."

Mayor questioned whether the Dendinger's are willing to lose some trees to obtain the right-of-way.

Dendinger said "No, that was a big issue with me when they were talking about putting Spruce and Oak in, I wanted to save my trees because they are a big buffer between all of the traffic that goes to the Wayne Walter's development. This goes back to September of 2003 when

Dendinger's were negotiating with the City. The City (Dennis and Mike) was telling me they would not move Spruce Street, it was going straight no matter what. They were going to take one-half acre of my ground and assess me \$16,000. At that point, I said no. The next meeting was in February 2005. All of a sudden the City decided to move Spruce over to save the trees but I never received a map and was never told about the change. In the meantime, the Jones' house was already staked out and he hadn't worked out a deal on the street yet. That's when we finally came to the Finance Committee because these guys would not budge. They wanted me to donate my ground to the City and still pay for the special assessment. I've got property being developed by the City and I have not been included on the layout. The Jones had 10 meetings with the City on development of their place and I had zero. The street was laid out to make the lots developable and make the best use of City property. The City could put the street wherever they want. It doesn't make sense to spend half a million dollars to put the street in that location."

Councilman Van Dyke questioned whether Dendinger is being "petty" about five feet of right-of-way.

Dendinger gave the City access to survey the property but "Smith makes it sound like it just happened. I can go back to May of 2003 and the City lots were already laid out." Dendinger feels the City hasn't discussed things with him.

Van Dyke stated the City staff and elected officials have been discussing the project with Dendinger for quite some time.

Mayor Adams took exception to Dendinger's remarks and said Dendinger has been included in a lot of discussions, although the discussions haven't always been friendly and Dendinger hasn't always been receptive to what is being said. Mayor said the City reached an agreement with the Dendinger's in May 2005 and it looks like the Dendinger's are not honoring that agreement.

Dendinger passed around a map and questioned whether elected officials can locate the right-of-way. The Dendinger's weren't able to locate the right-of-way. Dendinger asked Dennis Smith "to come out and show him the right-of-way because he didn't understand where it was located. Dendinger said if "I did understand we wouldn't be here today." "The street continues to go down my property line and there's 20 feet of right-of-way on my side and only 10 feet on the Jones' property."

Mayor questioned what difference the right-of-way makes.

Dendinger stated it makes a difference because the lot becomes bigger on the south side since the lot begins at the edge of right-of-way. When Dendinger measured the Jones' house from Dendinger's driveway, it is too close. Dendinger indicated Smith said the right-of-way line can be moved to 15 feet after the project is completed but that allows the Jones' home to be built out further than other houses on the street. Dendinger said the City never once sat down and discussed the street location with them. Dendinger said the City is not working with them on the project. Dendinger got tired of working with Smith and Nolan and then went directly to the Finance Committee members in May 2005. Dendinger said "I would be happy with the City making the right-of-way 10 feet on his side". Dendinger said the maps received at the Finance Committee meeting in May 2005 didn't legibly show the right-of-way. Dendinger said the City's Engineering Department "won't give him any thing but small maps". Dendinger wants to see a large map with the drawings. Dendinger wants to get this over with and doesn't want to stop the street from getting "put in". However, Dendinger doesn't want something "shoved down my throat". Dendinger requested the right-of-way be changed on the north side of the street.

Smith stated the right-of-way on the north side of the street could be changed but the value of the ten foot strip of land the Dendinger's want to forego is \$2,747.50 at the \$1.75 per square foot that the right-of-way was valued at for Spruce Street.

Dendinger wants to "get this behind me" and thinks the City wants the same. Dendinger questioned why the street isn't straight.

Councilman Van Dyke said the street has a jog in it to get a decent crossing over the railroad tracks, not to make the City property more valuable. Van Dyke said elected officials don't want the intersection on top of the railroad tracks.

Dendinger said "the railroad thing came afterwards".

Mayor Adams stated the railroad concern was at the very beginning of the project. Elected officials always knew the intersection needed to be moved back from the railroad tracks. Mayor Adams questioned how this issue can be resolved with the Dendingers.

Dendinger is looking at the future of his property and wants the right-of-way on the north side to be 10 feet just like it is on the south side and "we'll go for it".

Smith offered "to do that at what the property is worth". Smith has not changed the layout since May 2, 2005. Smith did say in 2003 that the City wouldn't move the street. However, staff went back and looked at several other options and came up with the best solution which is to move the right-of-way 20 feet on the south side. The detailed design indicated the ROW needed to be shifted again, an additional 5 feet to save Dendinger's trees. Smith stated there are a lot of streets in town that aren't centered in the right-of-way, such as Elm Avenue, 5th Street and Golf View Drive. Smith stated the Mayor suggested running the ROW 15 feet on each side but that would eliminate some of Dendinger's trees. The City has offered to cut the right-of-way on the north side to 10 feet which is ok as long as the City gets the value of the property back into the discussion.

Dendinger questioned who is paying for the special assessment to the west of the Jones' new house.

Smith stated the City negotiated a fair, reasonable deal with the Jones and a fair, reasonable deal with the Dendingers.

Dendinger said Smith didn't negotiate with them, the City Council did the negotiating.

Nolan felt these discussions were resolved at the May 2, 2005 Finance Committee meeting. The discussion today is about whether the Dendinger's are satisfied with the right-of-way that "you said resulted from the May meeting. It isn't about any of the rest of this."

Dendinger wants "a 15 foot right-of-way on my side of the street with no additional assessment and we'll get the contract to you."

Nolan questioned the consequences to the relationship with the Jones' and the Wells Fargo Bank agreement if the City agrees to Dendinger's proposal.

Smith doesn't think Dendinger is requesting the right-of-way on the south side. Smith thinks Dendinger is asking for less right-of-way on the north side and still get the full compensation agreed to for the 40 foot of right-of-way on May 2, 2005. Dendinger's request shouldn't impact the relationship with the Jones' or the Wells Fargo Bank agreement.

Van Dyke said that if Dendinger "would guarantee that this would end this thing I think we could forfeit the 5 feet of right-of-way and leave the terms of the agreement the same."

Councilwoman Saunders said "I think it's feasible, get it changed and have the Dendinger's sign today to move forward with the project".

Mayor Adams agreed with Saunders--the agreement needs to be signed today.

Dendinger agreed but said "Dennis won't ever budge with anything like this."

Mayor requested that personalities be kept out of the discussion. Dendinger wanted to deal with the Council and the Council is telling Dendinger what the deal is.

Dendinger said "the only other thing is if there is any other additional cost with my bank" because the legal description needs to be changed on the title and/or with the bank because of the loan.

Smith stated the agreement was written that the Dendinger's must give the City of Norfolk clear title on the piece of property and any costs associated with that are the Dendinger's.

Mayor Adams emphasized the Dendinger's agreed to sign the agreement today and there won't be any more discussions on the project.

Councilwoman Saunders moved, seconded by Councilman Fauss to authorize the City to change the Dendinger agreement to read 35 feet instead of 40 feet of right-of-way on the Oak Street

project. Roll call: Ayes: Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wilson and Mayor. Nays: None. Absent: None. Motion carried.

The presentation by Jay Knobbe regarding recent activity of the **Norfolk Area Recruiters** will be held at a subsequent meeting.

Councilman Van Dyke moved, seconded by Councilman Fauss to adjourn from regular session and convene into executive session at 7:31 a.m. to discuss potential litigation related to the ethanol facility. Roll call: Ayes: Council members Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wilson and Mayor Adams. Nays: None. Absent: None. Motion carried.

Councilman Leshovsky moved, seconded by Councilman Van Dyke to adjourn from executive session, reconvene into regular session and adjourn the meeting at 7:40 a.m. Roll call: Ayes: Council members Kaspar-Beckman, Brenneman, Fauss, Lange, Leshovsky, Saunders, Van Dyke, Wilson and Mayor Adams. Nays: None. Absent: None. Motion carried.

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Elizabeth A. Deck  
City Clerk