

## FINANCE COMMITTEE MEETING

The Finance Committee of the City of Norfolk, Nebraska met in the City's Conference Room, 309 West Madison Avenue, Norfolk, Nebraska, on Monday, August 27, 2007, 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 Brenneman, Coy, Fauss, Lange, Reeder, 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, Finance Officer Randy Gates and Property/Operations Manager Gary Miller.

The media was represented by Greg Wees, Norfolk Daily News; Jim Curry, WJAG/KEXL; 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 Mayor informed the public about the location of the current copy of the Open Meetings Act posted in the meeting room and accessible to members of the public.

The first item on the agenda was a presentation regarding the proposed Nebraska Resources Company LLC (NRC), a wholly owned subsidiary of Tulsa-based Seminole Energy Services LLC, gas pipeline from Clay Center to Columbus. City Administrator Mike Nolan introduced Jason Farnsworth with Olsson Associates. Olsson Associates is the engineering firm working with Seminole Energy Services to develop the pipeline. Farnsworth said Dan Frey, Seminole Energy Services, is attending a meeting in Lincoln to help address energy supply issues across Nebraska.

Farnsworth gave a Power Point Presentation on the Nebraska Resources Company proposal. The proposal is a 150 – 180 mile-long natural gas pipeline serving local distributions companies, new or expanding bio-fuels facilities and large industrial users. The design philosophy is to minimize environmental impacts and agricultural disturbance. NRC is considering central Nebraska to add additional gas for communities, industry and agriculture to add competition and to support new and expanding bio-fuels facilities shortages. The NRC pipeline will be sized 20" down to 8" with pressure of 850 psi down to 250 psi. The pipe will be welded and coated steel and buried to a depth of a minimum of 48" cover. NRC will obtain 50' permanent and 50' temporary right-of-way easements to lay the pipe. The pipeline will have radiographic weld inspections, hydrostatic testing and remote monitoring. Farnsworth stated the original route, or Phase 1 of the project, is from Clay Center to Aurora to York and then to Columbus. NRC has also been discussing bringing the pipeline north from Columbus to Norfolk. Special construction situations to be considered are paved roads and railroads, gravel roads and

driveways, wetlands and streams, irrigation systems, other pipelines and residences. The project timeline is July – August 2007, finalize pipeline alignment, notify landowners and begin environmental fieldwork; August 2007, final alignment public meetings, complete environmental fieldwork, begin acquiring easements from landowners; Winter 2007/2008, engineering design; and Spring 2008, earliest date for construction to begin.

RJ Baker, Elkhorn Valley Economic Development Council, questioned what Nebraska cities are “tapped out” for gas.

Farnsworth isn’t sure any city besides Norfolk is “tapped out” for gas. Many cities only have one gas supplier and there isn’t competition to keep rates lower. However, there is a gas shortage for future bio-fuels facilities.

RJ Baker has met with NRC representatives to discuss high volume users. NRC needs about 20,000 decatherms to come to Norfolk. NRC’s biggest concern is whether or not the Nebraska Public Service Commission (NPSC) will regulate the gas instead of the Federal Energy Regulatory Commission (FERC).

Farnsworth stated FERC regulates interstate pipelines and the process takes 16-24 months. The Nebraska Public Service Commission hasn’t yet taken ownership of an intrastate pipeline; however, NPSC does have that authority. NRC has requested the NPSC make a ruling on the intrastate pipeline and a hearing is set for September 25.

RJ Baker encouraged support letters be sent to the NPSC by September 7.

Mayor Adams stated elected officials will send a letter to the NPSC as a group.

J Paul McIntosh stated the NPSC has historically not allowed more than one pipeline to a municipality and this would be a major change in policy.

Nolan stated the City was contacted by Northern Natural Gas about a pipeline extension from Wayne to Norfolk. However, the estimated cost of the project is \$40 million.

This item was for informational purposes only.

At the request of Councilpersons Fauss and Wilson, the next item was a discussion of issues related to Specialty Soy Protein (SPPLLC).

Nolan stated Jim Foster would like to participate by telephone on the discussion regarding SPPLLC.

Councilperson Fauss said the request was to discuss “the land and had nothing to do with the soybean processing plant so I don’t know why Mr. Foster would be involved.” Fauss wanted to talk about the industrial tract where the soybean plant was going to locate.

Mayor said a discussion about the land would be appropriate since RJ Baker is at the meeting and knows the details about that situation.

Fauss invited RJ Baker, Mary Plettner, Dave Copple and “some of the people on the Action Council” to discuss the industrial tract. Fauss wants to see what it will take to get the land ready

so a new industry can be attracted to Norfolk. Fauss wants to be proactive and take a step forward and identify the City's resource team and how the team "is going to work at this" and "not just sit around and let another industry pass us by." Fauss wants to get the key players involved to "see who they are, what they are doing and whether they need more help."

Councilperson Wilson said it is also important to consider the \$1.5 million grant "on the line right now" that will be lost "if something doesn't get accomplished."

Fauss has heard there are other industries looking at coming to Norfolk and that site would be a good place. However, "there isn't anything to provide them and we need to start getting the power and stuff out there or at least have a plan." Fauss wants to see what the plan is for that site. Fauss would like to discuss industry in general coming to Norfolk. Fauss said the presentation on the gas pipeline was good but the City also needs to work on the roads as well as other infrastructure. Fauss wants to see "who is doing what so we can keep up on what the progress is."

Nolan feels a discussion on the information distributed in the agenda packets is important because it relates to development of the site and not necessarily the gas supply issue. Nolan stated staff tried to respond to concerns raised at the August 6, 2007 Finance Committee meeting regarding SPPLLC. Included in the packets are various sections of State Statutes that relates to the development of real estate that is owned by the private sector in terms of the use of public funds. Included in the packets was a 1995 legal opinion requested by Senator Don Wesely on Article XIII, Section 3 of the Nebraska Constitution which addressed Chase v. Douglas County where "the Court found that the provisions of the statute authorizing expenditures for the purpose of acquiring real estate or options on real estate for industrial development were unconstitutional and in violation of the Constitution." The opinion also stated "most recently, the Nebraska Supreme Court has referred to the historical genesis of this provision and similar provisions found in most other state constitutions." "They were designed to prevent the use of public funds for enterprises actually engaged in private business."

Section 13-315 of the Nebraska Revised Statutes, included with the agenda packets, is the statutes that Chase v. Douglas County reacted to and outlines what it authorizes for the purposes of public funds without an LB 840 program. The Section states, "for the purpose of encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of acquiring from any source a municipal electrical distribution system or exploiting and advertising . . . ." Essentially, Section 13-315 allows municipalities to staff and market for the recruitment effort. However, it doesn't allow the City to use funds to provide incentives or deferral costs for development of industrial sites. LB 840 does authorize those types of expenditures but without an LB 840 program, the expenditures are in violation of the Constitution.

Fauss questioned "what are we doing to keep the loan going."

Nolan stated the site was recently shown to a prospect; however, the prospect has some unique requirements and probably won't be interested in the site. However, the grant money is available to develop that site on the conditions allowed by the Economic Development Administration. The City has until the end of November 2007 to use the grant. The grant funds were going to be used to get water to the site for the soybean plant.

Public Works Director Dennis Smith stated the grant is contingent upon the City having “a bird in the hand.” The grant money can’t be obligated to just anything. A prospect needs to use that specific site for the grant money to be utilized.

Wilson questioned whether the resource team is working together to attract a business to the site.

Nolan stated resource team members are working together to the extent possible and development of gas capacity is part of that effort. Nolan stated the Elkhorn Valley Economic Development Council (EVEDC) is limited on funds, as well as the City. Nolan stated that without an LB 840 program, the City can’t develop the site without having private investors.

RJ Baker stated EVEDC has capital campaign funds used for various purposes to attract new business. Baker stated the soybean plant was a “bird in the hand” and that City staff “did everything they could do” for the project. Baker stated “we were pretty much blindsided by the natural gas situation.” The process to bring more natural gas to Norfolk is a good thing to promote competition.

Nolan stated Norfolk does have an industry, the ethanol plant, which has invested \$100 million in its facility and the plant still doesn’t know whether the gas issue is resolved. The plant has a substantial amount of capital to invest in an expansion of its ethanol facility, either in Norfolk or somewhere else.

A summary of LB 840 and what the law requires for an LB 840 program was included in the agenda packets. Nolan reviewed the LB 840 information with elected officials. The handout lists communities that currently have LB 840 program and the eligible activities. Nolan stated the law now explicitly states that the LB 840 funding must come from either sales tax or property tax. Nolan stated Norfolk has submitted a proposal to the League to have a Constitutional amendment considered which would allow other funding sources.

Wilson understands the LB 840 program but has concerns that the City may lose the \$1.5 million over the next three months. Wilson wants to make sure the resource team works together to be able to keep the money available. Wilson said “it works a lot better when everyone is talking and working together than as individuals.”

Nolan emphasized that unless a prospect comes to Norfolk, the funding will be lost.

Wilson left the meeting at 7:43 a.m.

Reeder questioned how often members of the resource team meet.

Nolan stated the members meet whenever RJ Baker calls a meeting. Usually the meetings are related to a prospect.

RJ Baker stated meetings are “prospect-driven.”

Reeder questioned whether the team works on attracting businesses to the Norfolk area.

Nolan stated City staff is not involved in recruitment efforts. City staff responds to infrastructure concerns/questions and responds to issues such as the gas meeting scheduled in Lincoln “all the time whether the resource team meets or not”. Nolan said RJ Baker is the person who deals with prospects.

RJ Baker stated EVEDC has an on-going marketing program. Part of the program is mailing 1,800 postcards per month to businesses and corporations. Another aspect of the program is attending numerous trade shows.

Reeder feels it is important for the resource team to meet and discuss “where to take Norfolk in the future”. Reeder stated Wayne has an industrial park and Norfolk needs one also. Reeder also wants to make sure that “existing businesses are being supported” and that someone needs to talk to each of those businesses and “find out what they need so we don’t end up with a surprise.”

Nolan agreed with Reeder but stated it is important that the Council understands what the law says as far as how infrastructure is constructed. The law says the City can’t treat utility customers differently. The City also has subdivision regulations that need to be followed. Unless the City gets a prospect that “can drive a tax increment financing project or an LB 840 program” then the improvements are done the traditional way with some portions of the utility costs assessed against the benefiting property.

Coy understands South Sioux City doesn’t have an LB 840 program.

Nolan agreed but said South Sioux City does, however, have a huge economic development agency that is privately funded.

Coy questioned whether “that’s something we need to look at.”

Nolan stated Norfolk does have the Greater Norfolk Corporation and EVEDC.

Baker stated EVEDC had \$1.2 million committed over a five-year period for its capital campaign. EVEDC is in the third year of that program. The program helped purchase the Vishay building and the Arnold site. It also pays for all marketing and provides some small business loans. Baker stated EVEDC is now looking at more people-recruiting just for expansions coming in the future to Norfolk. In addition, EVEDC does have an on-going business retention program.

Coy questioned whether the City should “be more aggressive at raising money for development of the site while waiting for LB 840 legislation to pass.”

Nolan questioned where the money would come from.

Baker stated funding would need to be from private sources.

Mayor Adams stated the City would need to do another capital campaign.

Van Dyke pointed out that LB 840 legislation is in place but the citizens of Norfolk did not pass an LB 840 program.

Nolan stated there is a lot involved in making a state and community grow, and all of it takes a lot of time and effort by a lot of people.

Coy felt “as a group of people we can help move this LB 840 program along”. However, Coy doesn’t feel the City can sit around and wait for an LB 840 program.

Nolan agrees with Coy but public funds can't be spent. Nolan questioned how Coy would organize a public subscription to raise the money.

Coy stated South Sioux City was highly successful in raising the funds.

Baker stated South Sioux City hired a consultant for the campaign.

At the request of Mayor Adams, Baker explained the process when a prospect shows interest in locating in the State. Baker stated three things are in every proposal received: 1) be located within one hour of a commercial airport; 2) located within 15-30 minutes of a four-lane highway, whether expressway or interstate; and 3) labor force. Baker stated Norfolk typically gets eliminated on one of those three requirements. Baker stated the EVEDC deals with these types of issues on a daily basis. Baker stated economic development is built on capacities, including sewer, water, power, transportation and labor.

Nolan explained the site for the soybean processing plant is not the only industrial site in Norfolk. There is another industrial site located by Affiliated Foods, another site located in northeast Norfolk and the site owned by the Greater Norfolk Corporation site.

Baker stated more industrial sites are located in the southern part of Madison County as well as some sites located south of Omaha Avenue and on east Omaha Avenue. Baker stated a lot of dynamics come into play when dealing with economic development. Baker stated Nebraska state law really inhibits development because of the "bird in the hand" situation.

Saunders left the meeting at 7:58 a.m.

Reeder emphasized the importance of talking to the existing business community to build a strong foundation.

Nolan stated "we don't talk to all of them all of the time but we talk to some of them every day."

Mayor stated RJ Baker already has a program in place that reaches out to the business community on a regular basis.

Fauss feels "we need to get together because we have that \$1.5 million on the hook and we have two months to do something with it. We want to make sure that the wheels are going forward and that everybody is talking and that everybody is on the same page and got our direction to get something going. We need to get that gas coming because it's not going to happen until we get that." Fauss would like to be kept up-to-date on what is going on "when you guys are meeting so we know that you are meeting because I haven't ever heard of any of you getting together to meet. It looks like we need to do more."

Mayor requested Fauss define who should be meeting. The Action Council meets every week to discuss issues related to Norfolk.

Fauss said "that's exactly what we are talking about, who is the resource team?" Fauss wants to "know who the players are who are doing these kinds of things and I need to know that they are meeting. Every time I ask I get different answers."

Reeder requested a list of people "who are in charge of what."

Nolan stated every meeting attended is documented in the Works-in-Progress report.

Van Dyke stated elected officials get copies of the minutes of the Action Council.

Fauss isn't just talking about the Action Council. Fauss said the "Action Council does their thing and other groups do their thing and I don't see them coming together on stuff." Fauss said, "I get little minutes from Mike where he has meetings but it doesn't say what he is doing." Fauss wants to make sure "it's all working together."

Van Dyke stated some of the discussions are sensitive negotiations.

Fauss agreed but feels "there is still a way we could be told it is happening" so "we can respond to the public." Fauss feels elected officials should be more informed and stated "there are ways to do that."

Baker stated the resource team consists of members from City staff, Nebraska Public Power District, Northeast Community College, Aquila, NENEDD, EVEDC and occasionally someone else with a particular expertise or contact. The resource team doesn't meet unless there is a viable prospect.

Coy questioned the last time the group met.

Baker stated it was on the SPPLLC project about 2-3 weeks ago. Baker stated often times the resource team doesn't even know who the prospect is because of the sensitive nature of economic development.

Fauss "just wants to make sure everyone is meeting and working together." Fauss wants Norfolk to be a "step up community and not a step below other communities." Fauss has heard "some comments that we were a step down from other communities and that was a poor statement, a slap-in-the-face statement and I don't want to ever hear it again." Fauss wants to make sure things are moving forward.

Baker feels Norfolk is ahead of a lot of communities.

Fauss questioned whether the \$1.5 million grant could be used for the ethanol plant.

Nolan stated the \$1.5 million has to be used for a public purpose and cannot be used for the ethanol plant.

Councilperson Van Dyke moved, seconded by Councilperson Reeder to adjourn the meeting at 8:14 a.m. Roll call: Ayes: Council members Brenneman, Coy, Fauss, Lange, Reeder, Van Dyke, and Mayor Adams. Nays: None. Absent: Saunders and Wilson. Motion carried.

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Elizabeth A. Deck  
City Clerk