

WORK SESSION

A work session was held by the Mayor and City Council of the City of Norfolk, Nebraska, on Monday, May 16, 2011 beginning at 7:35 p.m. in the City Council Chambers, 309 West Madison Avenue, Norfolk, Nebraska.

Mayor Sue Fuchtman called the meeting to order.

Roll call found the following members present: Mayor Sue Fuchtman and Councilpersons Breneman, Clausen, Coy, Fauss, Lange, Merrill, Murren and Saunders. Absent: None.

Staff members present were Interim City Administrator Shane Weidner, City Attorney Clint Schukei, City Clerk Beth Deck, Public Works Director Dennis Smith, Wastewater Superintendent Todd Boling, Property/Operations Manager Gary Miller, Transportation, Building & Grounds Director Jim Koch, Police Chief Bill Mizner, Finance Officer Randy Gates, Water & Sewer Director Dennis Watts, Solid Waste Manager Gary Lund, Information Systems Manager Jim McKenzie, Human Resources Director Sheila Schukei and Operations Manager Gary Miller.

The media was represented by Jim Curry, WJAG, Greg Wees, Norfolk Daily News, and Eric McKay, US92.

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.

City Council Interaction and Subcommittee Expectations

Elected officials discussed interaction and subcommittee expectations. Options discussed were to either establish a standing subcommittee meeting on the Wednesday prior to a City Council meeting to review the agenda with staff which may provide better clarification of some agenda items; to have a Monday morning work session the day of a City Council meeting; or have a work session preceding a City Council meeting to help set the agenda for the next meeting.

Councilperson Fauss would rather have a meeting either before or after a City Council meeting. Fauss feels attending the Wednesday staff meetings may be beneficial but things are going well already.

Elected officials would like to have summaries of subcommittee meetings distributed as soon as possible instead of waiting to receive the information at a Council meeting.

Weidner indicated the subcommittee summaries can be distributed in a timely manner but explained the meetings are brainstorming sessions.

City Attorney Clint Schukei clarified that elected officials cannot have two separate subcommittee meetings on the same subject because it would be a violation of the Open Meeting Act.

SID #1 and Norfolk Regional Center
(Sewer drainage issues)

Those attending representing the SID#1 were: Mark Fitzgerald, attorney, Vince Knight, Bill Goodpasture, Terry Sparks, Casey Garrod, Becky Schmitz. Also attending was Darrold Lidgett.

Also attending were Bill and Marie Nielsen, 929 East Norfolk Avenue, and Dan and Judy Wilson, 1300 East Norfolk Avenue.

Fitzgerald indicated the SID #1 has contracted with JEO Consulting on an evaluation of the sewer system and report. Fitzgerald distributed a Scope of Services to elected officials. The Scope of Services includes a Field Review, Closed Circuit Televising, Smoke Testing, Flow Metering, Video and Reported from Closed Circuit Televising, Data Compilation, Evaluation and Recommendation, Cost Opinions and Report Preparation. The proposed project schedule includes completion by October 2011. Fitzgerald stated the SID #1 Board is serious about eliminating the sewer drainage problems. The SID has also purchased a monitoring device to measure flows in Woodland Park. Fitzgerald feels the JEO study should do everything the City of Norfolk has requested.

Fitzgerald stated the State of Nebraska has also entered into an agreement with JEO Consulting to do a study to provide a similar evaluation of services at the Norfolk Regional Center, which shares part of the City's sewer line.

Interim City Administrator Shane Weidner explained the City of Norfolk wants to know that all parties involved are working on a long-term solution to the problem. However, the adversely-affected property owners, Nielson, Wilson and Gubbels, want a clear understanding of a short-term solution to the sewage backup. The property owners have manual and automatic valves installed on the sewer lines but need to know when a large flow is coming to shut off the manual knife valves since the property owners may not be able to continue receiving insurance coverage if a sewer backup occurs again. There have been three sewer backups since 2008. The City of Norfolk would like indemnification and hold harmless agreements from SID #1.

Steve Parr, JEO Consulting, stated Fred Hiatt with the State of Nebraska contacted and entered into an agreement with JEO Consulting for a similar scope of services for the Norfolk Regional Center. JEO will also be looking at the sanitary sewer for the Norfolk Regional Center. A kickoff meeting is scheduled for May 19, 2011 with a final report to be delivered to the State by August 31, 2011. Parr indicated City of Norfolk staff can attend the kick off meeting.

Public Works Director Dennis Smith stated the City of Norfolk is not aware that SID #1 has identified a large area of concern so there is still the potential for the City's sewer system to be overloaded. The City's Water & Sewer Division staff is prepared to watch for high flow rates at the lift stations in that area and will try to contact citizens in advance to avoid any potential sewer backups. Smith indicated that inspecting the automatic valves may help and providing information to the property owners is important.

Nielsen and Wilson are concerned that a sewer backup will occur when they aren't home to shut off the valves. The property owners want to know who is going to be financially responsible for damages from another sewer backup. Wilson stated the first sewer backup was not the City's fault but the cost was \$48,000 for repairs. The second backup in Wilson's basement cost \$8,000 and the 3rd time cost the insurance company \$4,000. Wilson is not going to pay for any additional sewer backups and is still waiting for reimbursement of a \$1,000 deductible from the last backup. Nielsen said that the SID #1 insurance company accepted responsibility in 2008 and paid for the damages. Nielsen and Wilson want assurances as to financial responsibility if another sewer backup occurs.

Fitzgerald said a claim was filed with the SID but they are not in a position to discuss the 2010 claim since it is a matter of potential litigation.

Councilperson Lange indicated the City of Norfolk could control the flow from SID #1 but that may backup sewer to the point of origin, which would be homes in Woodland Park and at the Norfolk Regional Center.

Fitzgerald stated the sewer system in Woodland Park is 50-60 years old and the SID addressed all of the manholes along Highway 35 and installed bladders to eliminate infiltration into the system after the event in 2008. However, there wasn't a problem again until 2010.

City Attorney Clint Schukei explained the City of Norfolk is not at fault in providing the service. When inflows and infiltration in high water events are more than 2 ½ times the normal flow rates, which the system is designed to handle, then there are problems. The agreement with SID #1 provides for 625 combined gallons per minute with 125 gallons from the NRC and 500 gallons from the SID. However, the flow rate from SID #1 has been 5-6 times that amount. Another option for the City to consider is to restrict flow from Woodland Park so the City doesn't take more than the agreement allows.

Weidner agrees with Schukei but feels a better option is that the SID indemnify citizens for a short-term solution until the problem is resolved for the long-term.

Fitzgerald stated the SID could lose insurance protection if it contractually undertakes something it is not in a position to do, such as indemnification and hold-harmless agreements.

Councilperson Coy said the common sense thing for the SID to do is indemnify the three property owners (Nielsen, Wilson and Gubbels) instead of all the property owners in Woodland Park.

Fitzgerald said the SID can't enter into such an indemnification agreement. Fitzgerald has a different interpretation of the agreement with the City.

Councilperson Lange agrees the best solution is for the SID to indemnify the three property owners.

Smith explained the City of Norfolk does not know where the failure point is with sewage coming from Woodland Park. The Water & Sewer Division completed inspection of all manholes in Norfolk this spring and made repairs as needed.

Elected officials would like JEO Consulting to expedite completion of the sewer system evaluations for the SID and the Norfolk Regional Center.

Steve Parr with JEO Consulting said the company will complete the studies as soon as possible; however, one of the major elements is the closed circuit televising which won't happen until July because Johnson Services is booked up until that time. Parr said it will take 3-4 weeks to complete the Regional Center portion of the closed circuit televising.

Knight said the SID can rearrange the schedule to place the smoke testing ahead of the closed circuit televising which may be quicker in identifying a potential hazard. The SID has a TV camera that can go within 100 feet of a problem. The SID is not unsympathetic to the plight of the City of Norfolk customers; however, the SID has taken substantial action to identify and correct any problems in the system.

Councilperson Clausen moved, seconded by Councilperson Fauss to adjourn from regular session and convene into closed session at 9:16 p.m. to discuss the sewer drainage concerns related to SID #1 and the Norfolk Regional Center. Roll call: Ayes: Councilpersons Brenneman, Clausen, Coy, Fauss, Lange, Merrill, Murren, and Saunders. Nays: None. Absent: None. Motion carried.

Mayor Fuchtman restated that the only item to be discussed in closed session is sewer drainage concerns related to SID #1 and the Norfolk Regional Center.

Mayor Fuchtman restated for the record that the only item discussed during the closed session was the sewer drainage concerns related to SID #1 and the Norfolk Regional Center and requested a motion to come out of closed session.

Councilperson Clausen moved, seconded by Councilperson Fauss to adjourn from closed session and reconvene into regular session at 9:34 p.m. Roll call: Ayes: Councilpersons Brenneman, Clausen, Coy, Fauss, Lange, Merrill, Murren, and Saunders. Nays: None. Absent: None. Motion carried.

Weidner stated the sewer drainage issue is complicated but encouraged the SID to consider the short-term needs of property owners affected by the sewer backups and what can be done financially for those citizens if another sewer backup occurs. The City of Norfolk could install a large knife valve to control flow from the SID (Woodland Park) but that isn't a good option. Weidner wants the SID and the City of Norfolk to push hard to identify and correct the problem and suggested meeting every 1-2 weeks to discuss the issue and report back to affected property owners.

Fitzgerald said SID board members were not told the purpose of this meeting was to resolve claims from citizens.

Goodpasture thought this meeting was for a solution to the problem as well as the contract with JEO. Goodpasture said the SID meets once a month unless a special meeting is called.

Mayor encourage the SID have a special meeting to further discuss the sewer drainage concerns.

Smith explained the City of Norfolk is getting a radio system installed for continuous monitoring of the Woodland Park and NRC flow rates which hopefully will provide better information to be able to get notification out to property owners to prevent any further sewer backups.

There being no further discussion the Mayor declared the meeting adjourned at 9:47 p.m.

Sue Fuchtman
Mayor

ATTEST:

Elizabeth A. Deck
City Clerk

(S E A L)