

WORK SESSION

The City Council of the City of Norfolk, Nebraska, held a work session in the City Council Chambers, 309 North 5th Street, Norfolk, Nebraska, on Tuesday, March 10, 2015, beginning at 6:00 p.m. to discuss the City's responsibility for risk management.

Mayor Sue Fuchtman called the meeting to order.

Roll call found the following Councilmembers present: Councilmembers Clausen, Fauss, Granquist, Lange, Merrill, Moening, Murren, Pfeil and Mayor Fuchtman. Absent: None.

Staff members present were City Administrator Shane Weidner, Public Works Director Dennis Smith, City Attorney Clint Schukei, City Clerk Beth Deck, Finance Officer Randy Gates, Risk Manager Lyle Lutt, Administrative Secretary Bethene Hoff and Police Chief Bill Mizner.

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

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 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.

Risk Management

City Administrator Shane Weidner reviewed a Power Point presentation with elected officials, including a review of the historical value of risk management; a partial listing of community events and the considerations for holding an event: risk management, city services, and applicable fees. Weidner stated risk management, as defined in Webster's Dictionary, is "the continuing process to identify, analyze, evaluate, and treat loss exposures and monitor risk control and financial resources to mitigate the adverse effects of loss." Managing risk for the City of Norfolk is the responsibility of elected officials because the City has \$143 million worth of assets. The City of Norfolk recognizes that events in the City add to the quality of life in Norfolk but risk should be managed on the front end to mitigate lawsuits.

Weidner provided a background on how the City began managing risk. The City has had basic liability insurance for many years; however, in the early 1980's, Jim Nelson, a local insurance agent, recommended the City take steps to protect from those who would make claims or file suit because of bodily injury or property damage that occurs on city property. Therefore, a Safety Committee was set up to help identify potential safety issues in the City and to remedy those issues; a Risk Management Policy was written; and insurance policies that covered lawsuits as a result of injury and property damage were required of entities wanting to use City property for events. An Event Guide, developed to help organizers hold safe and successful events in Norfolk, was approved by the City Council on December 16, 2013. Included with the Event Guide is a section on insurance requirements, broken down into three categories of general liability insurance: "A"—minimum of \$1,000,000; "B"—minimum of \$2,000,000; and "C"—minimum of \$5,000,000. All three categories require inclusion of \$5,000 medical expense

coverage. All three categories list examples of events requiring that level of insurance coverage. Weidner stated that some people would like the Nebraska Legislature to remove tort limits which would allow for lawsuits over anything and for any amount and not be in the best interest of municipalities.

Weidner also explained that the City of Norfolk provides other services that aren't charged to event organizers, including Police Division traffic control; Street Division setting up barricades and/or cones; Parks Division setup and cleanup; and Fire Division EMT services during large events. Some municipalities charge extra to event organizers for over time incurred by a city when providing the extra services. Elected officials have established a fee schedule to help defray costs for setup, cleanup, electricity, maintenance and utilities; however, the fees do not cover all of the costs incurred by the City. Weidner encouraged elected officials to be consistent when it comes to fees and insurance coverage for events on City property.

Weidner and Fuchtman recently met with a local insurance agent to discuss the possibility of the City purchasing a TULIP (tenant user liability insurance policy), which is an umbrella insurance policy that event organizers could buy into. However, there was little-to-no costs savings with TULIP insurance.

Geneie Andrews, marketing manager and assistant loss control officer for the League Association of Risk Management (LARM) in Lincoln, discussed risk management services in Norfolk. Andrews said Norfolk city staff does an incredible job with risk management, and LARM often uses the City as an example to other communities because of the high risk management standards in Norfolk. Andrews said Norfolk's workers comp modifier is .75 this year, which is very good. A low workers comp modifier can equate to lower insurance premiums. Workers comp is usually one of the single highest insurance costs to a municipality. Andrews stated the premium savings in the requests for proposals for insurance coverage several years ago was attributed to the hard work by city staff and a reduction in claims. LARM provides many training opportunities for members; and LARM recently did a re-evaluation of all City of Norfolk properties to get electronic pictures of buildings, playground equipment, shelters, etc. in case of a catastrophic event.

Andrews stated LARM just developed online training opportunities through Midwest Casualty which offers an additional 10% credit back to municipalities if all employees participate in the training and department/division heads track claims. The program was developed to help try to change the mindset/culture about safety and safety training.

Risk Manager Lyle Lutt explained the City of Norfolk's Water/Sewer Division has enrolled employees in the LARM online training which also counts for continuing education credits.

Councilmember Merrill stated it is important for the Norfolk Visitors Bureau to attract events to the community and Andrews helped provide tools to Visitors Bureau staff to bring more events into Norfolk.

Andrews said LARM wants to be a partner and not a stumbling block to municipalities to hold events. Andrews offered to help Kim Kwapnioski with any questions/concerns about events/event insurance coverage.

Finance Officer Randy Gates receives questions from event organizers as to why insurance coverage is required when the City already has insurance.

Andrews stated risk transfer is very important and a city should not be held liable if not accountable for an event. Andrews gave the example of a person falling over an extension cord at a music event at the park and breaking a leg--the event organizer would be liable. However, if the City doesn't keep a property in good repair and a person trips over a broken tile, then the City would be liable.

Councilmember Moenning hears from citizens that the City of Norfolk does a good job protecting itself, but maybe too good in terms of attracting more events. Moenning requested a comparison of insurance requirements of communities similar to Norfolk's size.

Andrews stated LARM looks to Norfolk as a standard to other communities for event insurance requirements and suggested at a minimum the tort limits of \$1 million/\$5 million of coverage. Andrews stated that if the City of Norfolk is negligent or acts inappropriately, then the City needs to be covered. However, if someone else is negligent or acts inappropriately they need to be held liable. Andrews stated elected officials have a responsibility to protect citizens and assets; it is not in the best interest of taxpayers to have to pay on claims when someone else is liable. Andrews stated entities have the insurance coverage and the City needs to make sure to transfer the risk to event organizers using City facilities.

Murren questioned what should be done when groups don't want to provide insurance coverage to the City.

Andrews suggested the groups call her; she can also help get the coverage for the organizer. Andrews doesn't know of any one place or anyone that has a comparison of liability insurance in other communities; however, Andrews can do a straw poll of cities similar to Norfolk's size and will provide the information to Gates to distribute.

Weidner questioned what elected officials expect from City staff regarding the process of handling the transfer of risk to event organizers.

Fuchtmann feels that after the discussion with Visitors Bureau staff, they are very satisfied with the City's process and the City's insurance requirements.

Merrill feels the City is well balanced with what is requested from event organizers according to input from the Visitors Bureau staff and "they have what they need to keep Norfolk competitive". Merrill stated the Visitors Bureau feels the City "took away any road blocks they think they might have had." Merrill feels the insurance limits are proper for events coming to Norfolk and first and foremost elected officials have the responsibility to protect Norfolk citizens and City assets.

Councilmember Clausen questioned the range of cost for an insurance policy for special events and whether the Visitors Bureau provided feedback on the City's Event Guide.

Andrews said the cost of an insurance policy depends on the level of risk against exposure and how long an event will last. However, a \$1 million policy costs about \$100. With the kinds of events held in Norfolk, for the most part, the person renting the facility will have the right coverage or will be able to purchase the coverage for minimal cost.

Weidner stated the Event Guide, although developed by City staff, came about at the suggestion of the Visitors Bureau. The Visitors Bureau has indicated there are only a few events, mainly spur-of-the-moment-type events, that cause problems with getting insurance coverage.

Fuchtman agreed with Weidner's comments and said the Visitors Bureau is not trying to put the City in a position to put the assets at risk.

There being no further discussion, the Mayor declared the meeting adjourned at 7:04 p.m.

Sue Fuchtman
Mayor

ATTEST:

Elizabeth A. Deck
City Clerk

(S E A L)