

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, March 3, 2008, 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, Transportation, Building & Grounds Director Jim Koch, Property/Operations Manager Gary Miller, and Finance Officer Randy Gates.

The media was represented by Greg Wees, 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.

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 discussed was the **curb grinding** report for 2007. Transportation, Building & Grounds Director Jim Koch reviewed the information with elected officials, including curb grinding costs, curb grinding fees, curb grinding for ADA compliance and sidewalk repairs requested by citizens. The City of Norfolk's present ordinance established a fee of \$7.50 per foot for curb grinding; however, the actual cost to the City is \$2.57 per foot which includes wages and fringe benefits. Equipment cost includes depreciation where applicable. The actual cost does not include overhead. Koch stated the curb grinding cost averages \$85.89 per location (20). The curb grinding fees average \$250.88 per location (20). Koch explained the cost for ADA compliance is \$165.54 per location (26) with an average cost of \$29.68 per ramp. The City repaired 13 sidewalks at the request of citizens at a cost per square foot of \$3.74. The City charges a \$75.00 mobilization fee per location for sidewalk repair. Koch stated Grand Island is the only other municipality that does curb grinding at a cost of \$6.50 per foot. Grand Island has a \$22.00 "call out" cost. Koch stated Omaha does curb grinding in the older sections of town but not the new areas.

Councilperson Fauss questioned what Wisnieski Construction charges to do curb grinding in Norfolk.

Koch does not know what Wisnieski charges for curb grinds. Koch stated the City "does not advertise" for business.

Councilperson Reeder questioned whether the City of Norfolk competes "cost-wise with private businesses".

Councilperson Van Dyke talked to Wisnieski last fall. Wisnieski was charging \$8.50 at that time and requested the City charge the same amount for curb grinds. Van Dyke does not want to compete with private business.

Councilperson Brenneman “recollects that same dollar amount.” Brenneman feels the City does not intend to compete with private business for curb grinding.

Councilperson Fauss stated Grand Island is the only other municipality that “competes with citizens.” Fauss feels something needs to be done so the City isn’t taking business away from private companies.

Councilperson Reeder suggested raising the curb grinding cost charged by the City to \$8.50.

Councilperson Wilson agrees with Reeder and feels the City’s main purpose for purchasing the curb grinding equipment was for ADA compliance.

Councilperson Coy suggested the City discontinue doing “outside business” once all ADA requirements are met.

Councilperson Lange feels citizens will support private business even if it means paying a little more.

Councilperson Fauss suggested raising the curb grind fee to \$8.50 to help with the City’s budgetary constraints.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to raise the amount charged for curb cuts from \$7.50 to \$8.50. Roll Call: Ayes: Councilpersons Brenneman, Coy, Fauss, Lange, Reeder, Saunders, Van Dyke, Wilson and Mayor. Nays: None. Absent: None. Motion carried.

The next item discussed was **local vendor preference**. Included in the agenda packet was a memo dated January 30, 2003 from City Attorney Clint Schukei to City Administrator Mike Nolan titled “Local Vendor Preference.” City Administrator Mike Nolan explained City staff wanted to advise elected officials to be cautious about local vendor preference. Nolan pointed out a Supreme Court case in 2004 that ruled “a public body has no discretion to award a bid to any entity other than the lowest bidder when two or more responsible bidders submit identical bids except for price.” In 2004, Schukei concluded that “a local vendor preference policy constitutes anticompetitive behavior and, as such, violates federal antitrust law since there is no clearly articulated and affirmatively expressed state policy allowing for a local vendor preference.”

Councilperson Fauss questioned whether any municipalities have a policy about buying locally if the bids are within a certain percentage. Fauss questioned whether City staff contact local car dealers when purchasing a vehicle.

City Administrator Nolan has not found any municipality in Nebraska that has a “certain percentage” type of policy/practice.

Property/Operations Manager Gary Miller explained the last time the City purchased a new vehicle was for the Community Character Development Coalition (CCDC) and specifications

were mailed to all local car dealers. The City did not buy off the state contract in this instance and an out-of-town dealer was the low bidder. However, the purchase price was \$1,700 to \$1,800 higher than if the City had purchased the vehicle off the state contract.

Webb McNally, Western Office Products Plus, feels the City should have purchased the (recent) new copier from Western and not Eakes out of Columbus. McNally feels vendors “sell cheaper in other areas and make it up in their own area.” McNally stated Columbus and Grand Island “declined letting Western Office Products Plus” bid in those communities because “they have enough bidders.” McNally stated Western Office Products Plus has a business in the City of Yankton, South Dakota, and Yankton has a policy “that if a local vendor is within 10% they can give the bid to them.” McNally feels elected officials need to take into consideration who pays real estate taxes in Madison County.

Miller has contacted Yankton officials and also looked at the South Dakota’s State Statutes. The Yankton officials would not “tell us they have that type of policy” (described by McNally) and if that is being done it would violate South Dakota state law. Miller has also contacted officials in various first class cities in Nebraska including Kearney, North Platte, Fremont, and Columbus. None of the Nebraska municipalities have “said they will not let a business bid” and the municipalities do not have a local vendor preference.

Councilperson Fauss questioned whether McNally could find the letter(s) denying Western Office from bidding. Fauss feels another 5 - 10% “in our economy would be better than in another city.” Fauss feels the City “should continue looking into this to see if someone else has come up with a better solution.”

Mayor Adams reiterated the Supreme Court case in 2004 that ruled “a public body has no discretion to award a bid to any entity other than the lowest bidder when two or more responsible bidders submit identical bids except for price.”

Councilperson Reeder stated it also says elected officials can “examine the true value of the bid.”

City Attorney Clint Schukei stated that in order for elected officials to have a 5 -10% local vendor preference policy, the State of Nebraska must first authorize that as a policy. Schukei stated that if “something was found in a municipality, county or school district in Nebraska where they have a local vendor preference policy” it is illegal and can’t be done in Nebraska unless the Legislature grants that authority. Schukei stated the case also talks about determining the best value. The portion of the case that the Mayor referred to is that if a bid is identical in every respect but price, elected officials are required to take the lowest bid.

Councilperson Van Dyke understands the concern but stated local contractors bid on projects out-of-town and it is a level playing field for everyone to bid.

Finance Officer Randy Gates stated the Sutton case states the local contractor said the money was going to stay in that community and help provide economic development benefits to the City. However, the Supreme Court stated that can’t be done in Nebraska.

This item was for informational purposes only.

The third item discussed was a proposed letter to the State Legislature concerning LB 371 and Norfolk’s opposition to defined benefit **pension** plans. City Administrator Mike Nolan

distributed copies of *The Norfolk Daily News* article in the October 7, 1981 paper entitled, “Unfunded Pensions Pose Problems for 16 Cities” and an article from *The Wall Street Journal* February 28, 2008 online edition entitled, “Dear Crunch, Wish You Weren’t Here.” Nolan explained Norfolk’s unfunded liability in 1981 was nearly \$1.2 million dollars and took 20 years to amortize. Nolan provided a brief overview of the bill. LB 371 creates a statewide defined benefit plan for all law enforcement personnel not currently enrolled in a defined benefit retirement plan. Amendment 1857 makes significant changes including dropping the cost-of-living adjustment provisions contained in the original bill and decreasing the benefit from 2.5% salary for each year the officer has been employed by the law enforcement agency to 2.25%. The amendment sets contributions at 9.25% of wages which would increase Norfolk police pension costs by \$60,000 annually. However, Norfolk’s cost is not limited to \$60,000 annually because LB 371 also requires political subdivisions to make supplemental appropriations as actuarially determined. Nolan stated the City of Norfolk does not currently have any problems with its three pension funds, Fire, Police and General Employees.

The last item discussed was the position of **Interim City Administrator**. Mayor Adams stated an Interim City Administrator will be required as of May 1, 2008 because of Mike Nolan’s resignation. Adams doesn’t anticipate that the new City Administrator will be hired by that time. Adams discussed and researched this issue and looked at several employees capable of doing the job. Adams concluded that Property/Operations Manager Gary Miller should be appointed to the position for the best interest of the City. Mayor Adams hopes the interim is for a short period of time. Adams commented that Public Works Director Dennis Smith has been Interim City Administrator in the past during Nolan’s vacation but Smith “has a full plate and another job probably doesn’t advance the interests of the City particularly during the summer months.”

Councilperson Reeder questioned whether Miller will receive a pay increase for the Interim City Administrator position.

Mayor Adams stated salary has not been discussed at this time.

Councilperson Van Dyke moved, seconded by Councilperson Reeder to place this item on the consent agenda at the March 17, 2008 City Council meeting. Roll Call: Ayes: Councilpersons Brenneman, Coy, Fauss, Lange, Reeder, Saunders, Van Dyke, Wilson and Mayor. Nays: None. Absent: None. Motion carried.

Councilperson Van Dyke moved, seconded by Councilperson Fauss to adjourn the meeting at 7:44 a.m. Roll call: Ayes: Council members Brenneman, Coy, Fauss, Lange, Reeder, Saunders, Van Dyke, Wilson and Mayor Adams. Nays: None. Absent: None. Motion carried.

Elizabeth A. Deck
City Clerk