

## MINUTES

### **PRE-COUNCIL MEETING**

Monday, October 31, 2005

10:00 a.m.

Conference Room #113

## **Emerald Request for Lincoln Water**

**Members present:** Jon Camp, Jonathan Cook, Dan Marvin, Annette McRoy, Patte Newman and Ken Svoboda (Robin Eschliman absent)

**Others present:** Marvin Krout, Stephen Henrichsen, Mike DeKalb and Michele Abendroth of the Planning Department; Steve Masters and Karl Fredrickson of Public Works and Utilities; Steve Huggenberger and Dana Roper of the Law Department; Mayor Seng, Mark Bowen and Ann Harrell of the Mayor's Office; media and other interested parties.

---

Ken Svoboda called the meeting to order at 10:03 a.m.

Marvin Krout introduced himself along with Steve Masters and Steve Huggenberger. Krout began by stating that everyone on staff is sympathetic to Emerald's situation, but there are some good reasons why it is difficult to look at providing service.

The area has 25 service units, 6-7 businesses, and 14-15 homes. It includes the intersection of 84<sup>th</sup> Street and West O Street out about a mile and a half west of the current City limits. It is in Tier 3. The development of the area began in the 1920s. The original purpose of the SID was not for water, but for sewage treatment. In 1991, the SID was expanded due to contamination of individual wells.

There are two ways the City could consider serving the area; one is with annexation and the other is without annexation, both of which create problems for the City. If the City were to serve Emerald without annexation, it would be a matter of extending the existing City water line one-third of a mile to the Emerald wellfield. The City has a long-standing policy to couple City services with annexation. This has protected the City's ability to grow both in land area and in tax base. It is part of the fundamental objective in the Comprehensive Plan.

There are only two exceptions that the City has made since becoming a water supplier. These are Yankee Hill Brick in the 1930s and Novartis in the 1960s. Both of these cases occurred before state legislation in 1963 which allowed cross-basin transfers to municipal purposes, which means it is limited to the City limits. There have been no exceptions made since this legislation. We have said no to many people who have had difficult water problems. This has included employers, churches, and small areas like Denton and Walton. All of these cases provided themselves with other alternatives or agreed to annexing. The difficulty in making an exception is that it opens the door for others and we become a regional utility.

Camp asked if there were other extenuating circumstances in the cases that were denied. Krout stated that they were turned down because either they were not agreeing to annex or they were not in the plan for annexation and were told that they needed to look at other alternatives.

The second option is annexation, which implies that there is an obligation for the City to provide full services to all of its citizens. There have been two agreements in the past where the property owner has acknowledged that there will be limited services. At some point, the City is expected to provide full service to all properties. It is not in the plans to service this area for a long time. An annexed property has to be contiguous to the City limits. This means that we will have to require annexing intervening properties, which are not part of the SID and would not necessarily be a benefit for them. If these properties sued and won, the whole area would be dis-annexed.

Marvin asked how many property owners this would affect. Krout replied that it would be a total of approximately 4-6. He added that Emerald could ask these property owners to agree to limited services, but that would be very difficult in some cases. Marvin then asked if there would be an expectation for service if those parcels were subdivided. Krout responded that it could be a problem whether or not an agreement for limited services is reached.

If the property is annexed, it will mean the dissolution of the SID, and Public Works will take over those services. This is in the Tier 3 area and is not expected to be served for 50+ years. If we changed our plans and decided to serve this larger area along both sides of I-80, it would open up another six to eight square miles with basically no City standard services of water. There are problems with capacity of the sewer line downstream which would make it more expensive to relieve that area. There is also no access to the interstate. The current system does not provide pressure for hydrants, and the nearest fire stations are five to six miles away. There would be additional costs for police and other services. We also would take on new cost to maintain and improve a new section of Highway 34.

When looking at other options for Emerald, the federal deadline is December 2006. They are looking at a new well, and the Natural Resources District has said that results are promising for the quantity and quality of this well. It would be more expensive, but the State has said that they would assist Emerald. The State could take more responsibility for assisting Emerald since it permitted a community well just 15 years ago under a former chicken ranch. There is a possible technical solution to the nitrate issue with de-nitrification of the existing wellfield. There are concerns that the remaining two wells will go dry as the third one did. Lastly, Emerald owners could re-open individual wells and purchase individual treatment systems. However, they are expensive and there are concerns that some will not purchase the systems or maintain them properly. There probably would not be State assistance for this solution.

Marvin asked if the individual treatments would be reverse osmosis. Krout stated that it would be reverse osmosis and a carbonated filter system. He added that this is not terribly uncommon in Nebraska.

Camp asked if there were other questions. Seeing none, he asked if staff had any comments.

Huggenberger added that there has been a suggestion at times from the Department of Natural Resources that the water permit may be limited to the areas that were permitted at the time of the permit. There have been other times when the Department has suggested it would not limit Lincoln to those kinds of areas. There is a concept that Lincoln cannot serve an area beyond its municipal limits without further authorization. Even if we press the issue, there has never been a suggestion by the City that we could provide service outside of municipal limits because our permit is limited for municipal purposes. That does not mean that we couldn't get an amendment to our permit, but it is not currently authorized for that.

Camp asked why we would not facilitate the communities around us and have a more natural planning approach. Huggenberger stated that we could choose to do that. We have been

concerned in the past about how much water supply reserve we would have left in our permits if we are not able to control how much demand we have.

Marvin asked if we are concerned with becoming a utility district and being forced to provide service to people outside the City limits. Huggenberger stated that is exactly what we are concerned with. They don't have an unlimited ability to force us to serve them. But certainly where our pipeline runs through their community, we would have a tough argument not to serve them. We are considering an additional wellfield, so this is another potential line running through a different area and another set of communities we may touch.

McRoy asked about the concern of having enough water. Masters stated that we use 1.5% growth as a basis for forecasting water supply needs. Water usage has shown that we need to be moving forward with the development of another supply source. Our facilities analysis has been on the basis of Tier 1. We have done very little on what might be needed to properly serve the area to the west approaching the Emerald SID. SIDs and communities are not very effective in controlling their growth. It is difficult to say no to a family or church that wants to grow, and it would be very difficult for the Emerald SID to say that they are not going to grow.

Newman stated that it is her understanding that we need to look at new wellfields at a cost of \$300 million. She asked if we can ask other entities for help in paying for this. Masters replied that it can be used as an argument either way. It can be used as a point of expansion to see how many people we can serve, or it can be used as a basis for being selective in how we grow. The latter is what the City of Lincoln has traditionally done.

Svoboda thanked staff for their presentation.

This portion of the Pre-Council meeting was concluded at 10:36 a.m.

Respectfully submitted,

Michele Abendroth  
Planning Department

*Q:\CC\Precouncil Minutes\2000-05\Pccm103105 Emerald water.wpd*

