

AGENDA
CITY COUNCIL MEMBERS' "NOON" MEETING
MONDAY, AUGUST 4, 2008
(Immediately Following Executive Session)
COUNTY/CITY BUILDING
CONFERENCE ROOM 113

I. MINUTES

- *1. Minutes from City Council Members' "Noon" Meeting of July 21, 2008.
- 2. Minutes from Directors' Meeting of July 14, 2008.

II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES -

- *1. Downtown Lincoln Association Meeting (Eschliman, Spatz)
- 2. District Energy Corporation Meeting (DEC) (Svoboda)

OTHER MEETINGS REPORTS:

III. APPOINTMENTS/REAPPOINTMENTS - To Be Announced

IV. REQUESTS OF COUNCIL FROM MAYOR - To Be Announced

V. MISCELLANEOUS -

- 1. Jail Committee update. (Requested by Dan Marvin) (See Attachment)

VI. CITY COUNCIL MEMBERS

VII. MEETINGS/INVITATIONS -

- 1. NAI FMA Realty - Annual Pre-Game Party! Come kickoff the Nebraska vs. Western Michigan game on Saturday, August 30, 2008 (3 hours before kickoff) at Wells Fargo Center, 1248 "O" Street, Suite 1031 - RSVP by Aug. 15th to Kari at 441-5809 or by e-mail - (See Invitation)
- 2. Retirement Party! Celebration of Gary Meier's 21 years of service to Lincoln City Libraries on Saturday, August 30, 2008 at Valentino's Party Room, 33rd & Holdrege - 6:30 p.m., Social; 7:00 p.m., Buffet - Cost \$11.00/person - RSVP by Aug. 22nd to Kathy at 441-8503 or by e-mail - (See Invitations)

3. Updowntowners, Inc., "Locked In At The State Pen" on Thursday, August 14, 2008 from 11:45 a.m. to 1:00 p.m. at the Nebraska State Penitentiary, 4201 S. 14th Street - Cost: Members \$12/Guests \$15 a person - RSVP by Aug. 11th to 434-6902 - (See Invitation)
4. Latsch's Office Product & Procurement Specialists-92nd Anniversary Celebration Product Show at Haymarket Park, Salt Dog Stadium, 403 Line Drive Circle on Tuesday, August 12, 2008 from 11:00 a.m. to 1:30 p.m. - Lunch will be provided - RSVP by Aug. 5th to 323-7222 - (See Invitation)
5. Invited as a guest of BryanLGH Foundation Board Member Lloyd Hinkley to our next Community Leaders Luncheon on Thursday, August 14, 2008 from 12:00 Noon to 1:30 p.m. at the Bryan Plaza Conference Center, 1500 South 48th Street - RSVP by Noon on Aug. 11th to 481-8605 or returning the enclosed RSVP card or by e-mail - (See Invitation)
6. Lincoln Chamber of Commerce invites you to attend the following Ribbon Cuttings:
- Please RSVP to Kathy Hale at 436-2385 or E-Mail: -
 - A.) GT Exhaust Systems, 4121 NW 37th Street on Thursday, August 14, 2008 at 11:00 a.m.
 - B.) Highland View Apartments, (location to be announced later) on Tuesday, August 19, 2008 at 10:00 a.m.
7. Center for People in Need invites you to Visit 'Tools for Education' Distribution on Friday & Saturday, August 8th & 9th, 2008 - The event will be at the Center, 3901 N. 27th Street during the following times: - Aug. 8th from 10:00 a.m. to 4:00 p.m.; Aug. 9th from 9:00 a.m. to 1:00 p.m. - Please RSVP if (and when) you can visit to Susan Hale by e-mail - (See Invitation)

VIII. ADJOURNMENT

***HELD OVER FROM JULY 28, 2008.**

Tuesday, July 22, 2008

Dear Commissioner Workman,

Thank you for your letter the other day asking for more information regarding the differences between using the JPA and the PBC to construct a jail. In general, I would characterize the use of the JPA as an “alternative” to the PBC and I suggest that there may be mutual advantages which would accrue to both the City and the County, if it is considered. This letter will try to outline some of those differences and, of course, it is up to the County to decide their value.

In general, the nexus of the JPA alternative stems from the original offer from the County, to the City, to partner in the construction of a 65 million dollar jail facility. The essence of that offer was to use the PBC to construct a jail. The County was asking that the city stop making payments for the operating costs of the jail and instead direct its payments over to the county to cover debt service on the jail (or lease payments that in turn make debt payments). This is a rather simplified explanation of this element of the county’s offer, but it is a reasonable summary of their position. I have specific concerns regarding the PBC model, all of which I believe can be worked out, but they are issues that would need to be addressed. I will detail those issues later in this letter.

The second aspect of the PBC offer was to partner with the city in order that the county could extend the debt service payments past the 10 year time horizon limit of the County. I am familiar with this issue and in general I would be willing to look at extending the payments. The two arguments for a longer time horizon are:

1. Lower initial annual payments
2. Cost spreading to a larger population base (Lincoln will be 330,000 in 20 year vs. 290,000 in ten)

So long as the service life of the facility is longer than the debt service, the 20 year payment can be argued to be a better, more cost effective method (especially at today’s low interest rate environment). One issue would be the bond vote at the most recent election, some have argued that “no” voters were saying pay for the jail over a shorter period of time. By and large it has been my opinion that the County

Board should decide the issue of the need for the jail and interpreting the vote this May. The City's role in the Jail has always been as a "passive investor", we do not control the day-to-day operations of the jail, and we have not held meetings regarding the need for a jail. State Boards and Commissions that regulate the jail contact you, not the City Council or the Mayor.

Based on these two elements of the PBC offer (again that the city would partner in debt service and the city would assist in lengthening the term of the payments) I looked into the possibility of the JPA as an alternative that may have mutual benefit to both parties. Through the JPA, the city can contribute levy authority to provide debt service. By using the JPA the debt maturities can be extended to 20 or 25 years. Presently the City of Lincoln does not utilize any of its nickel of levy authority authorized via its interlocal agreements. We would be able to offer over to the County an amount of levy authority (what has been discussed is 3 cents) to a JPA to provide all of the debt service to construct the jail. This would lower (or eliminate) the need on the county side to raise the levy to provide debt service as was envisioned under the PBC model. One issue raised: does the levy authority that the city provides count towards the County's levy limit, imposed by the state? I have checked with several sources and the answer to that question is "No".

In exchange for the City's offer to cover, through the JPA, the debt service of the jail, the county would then need to take on the responsibility of all of the operational cost of the jail. We would need to amend the "jail interlocal" to suspend all costs to the city for housing inmates at the county jail while the city was a participant in the JPA. By going this route, we would not need to discuss a complicated system of debit and credits that would transfer back and forth between the City and County to adjust for the difference between the debt service obligations owed by the city, under the PBC model, and the actual experience of City jail inmates in any fiscal year.

It is this evening-up mechanism that I find most problematic of the PBC model. The direction that I was given by my Council was to address two issues for the city of Lincoln: How do we square up at the end of a fiscal year a credit back to the City and how do we protect the taxpayers of Lincoln from a spiraling cost increases from the operational side of a new jail? Finally does this new agreement limit future City councils?

Let me address these issues for you.

First what is the manner that the county sees to provide payments back to the city in the event the actual experience results in an amount significantly below recent history?

If, for example, we use new technologies to ankle bracelet individuals who have committed city misdemeanor crimes, resulting in hundreds of thousands of dollars owed to the city, what is the manner that the county expects to pay the city? Second, I think we would all agree that the incentive system is a good system at lowering costs to the taxpayers. If some new technology would come forward, that dramatically lowers the incarceration rate of city inmates, while protecting public safety; which system (the PBC or the JPA) incents the quickest roll out of that alternative?

Let me address the incentive question first. I, in no way wish to imply that the County would hold back technological advances that would accrue to the city, the recent roll out of the ankle bracelet program and its effect at lowering the cost to the city effectively disproves that notion. But it is also fair to point out that the County is presently incented to lower the overall prison population, due to the crowded conditions and the scrutiny of the Nebraska Jail Standards Board. Would some future Board, faced with a Jail potentially at 65% of capacity; what incentive is there, in that case, to roll out technological developments that lower the incarceration rate of city inmates?

At our last meeting, it was discussed that the city may not be an interested party (under the PBC model) if the city incarceration rate dropped to such a level that we were not a significant player in the jail's overall use. Under that scenario, there is an incentive to keep city prisoners in jail so that the city's participation level satisfies the PBC statute. In other words, there is a minimum participation needed to finance through the PBC, whereby going below that level would invalidate the use of the PBC. Currently the city represents 10% of the annual jail population. At what level would we need to go to invalidate the use of the PBC? One could certainly argue, at that point, there is an incentive to keep city prisoners in jail to at least maintain this minimum. Placing all of the day-to-day operational costs (as the JPA system does) in one person's hands would better rationalize the system of incentives to best serve the taxpayer.

As to the issue of balancing the debits and credit and making up to the city cash payments back to the city for a lower actual cost than the agreed upon debt (lease) service payments, I cannot speak to this issue from a County Board position, but as a City Councilman, I will say that large unanticipated payments of 100's of thousands of dollars would pose a problem on the City side. Using the PBC model I thought about a scenario where the actual experience was half of what the city had paid out in debt service. How would the County make up a payment back to the city in the amount of say \$750,000? Taking my city perspective I believe this would be problematic. I have worked through some methods of trading back and forth to even up this, similar to the way the City and LPS even up land accounts balances, but I don't believe this method of evening up large differences has been discussed with the city. I am interested in understanding how the county anticipates this process would work under the PBC. Again, under the JPA method there is no need to square up end of year differences.

How do we protect the taxpayers of Lincoln from a spiraling cost increases from the Operational side of a new jail?

Let me be clear here. I am not implying any mismanagement of the county Jail. I know for a fact that the jail is nationally recognized and that the juvenile facility is a model for the country. I have been quite impressed with the education facilities, the booking facilities and other aspects of the County Jail. My question here rests on my experience with other businesses that have been equally talented and faced with changing circumstances, failed to anticipate all of the potential outcomes. There is truth to the saying "The best-laid plans of mice and men often go awry".

If the city is being asked to cede over to the county the issues of need and the type of facility that is being constructed, it seems that I should expect some protection from a calculation error that results in

dramatically increasing costs. I believe there will be cost savings to the County by having consolidated facilities, so my request to have some discussion of caps or limits to reduce the liability of large annual increases in costs to the city, should not be problematic, but I do believe they need to be addressed. What does the county believe is fair in this regard? (Again under the JPA model no provision needs to be established to cover this issue).

Finally does this new agreement limit future councils?

Both of these agreements (the PBC or JPA) appear to lock future councils into a 20 year agreement. I think it is fair to assume that people will commit crimes and we will be locking people up for those offenses, we've been doing that for far longer than 20 years. My Council colleagues would need to decide, as I will, if agreeing to a 20 year agreement that ties future Councils and County Boards together significantly hampers those bodies or not.

One difference though between the JPA and the PBC is that implied within the PBC model is the assumption that I will continue to charge and imprison city offenders similar to the way that I do now. The long-term trend in jail utilization though indicates otherwise. Years ago far more inmates were in Jail under city offences than they are now. The PBC model implies that I will continue to charge, convict, and imprison, on the city side, in enough scale that has a meaningful contribution towards the debt service of this 20 year bond. This is something that I do not know, and is something I would have to think about before I entangle future Council's with a 20 year agreement.

Conclusions

Bob thank you again for asking for my thoughts on this issue. I think the JPA model does not require end of year position squaring, protects the city from unanticipated costs, better allocates the incentives for cost controls, may provide the county with more levy flexibility and does not impinge the city in how the city may charge, convict, and imprison city crimes in the future, and frankly with those issues out of the way, can likely be implemented quicker than the PBC model.

Thank you for your service to this community.

Sincerely,

Dan Marvin
Lincoln City Council

**MINUTES
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Due to an error there are no Noon Meeting minutes.

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