

**MINUTES  
CITY COUNCIL MEETING  
July 17, 2012**

The Wayne City Council met in regular session at City Hall on Tuesday, July 17, 2012, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on July 6, 2012, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Sturm made a motion, which was seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of July 3, 2012, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

**VARIOUS FUNDS:** ADVANTAGE TAPE, SE, 225.00; AMERITAS, SE, 2062.30; APPEARA, SE, 99.49; ARNIE'S FORD-MERCURY, SE, 105.01; BAKER & TAYLOR BOOKS, SU, 1205.44; BANK FIRST, FE, 120.00; BARONE SECURITY SYSTEMS, SE, 1080.00; CITY EMPLOYEE, RE, 337.70; CITY EMPLOYEE, RE, 51.28; BROWN SUPPLY, SU, 426.30; CITY EMPLOYEE, RE, 87.98; CITIZENS NATIONAL BANK, RE, 3588.37; CITY OF NORFOLK, SE, 491.10; CITY OF WAYNE, RE, 850.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 30000.00; CITY OF WAYNE, PY, 66065.42; CITY OF WAYNE, RE, 30.00; CLAUSSEN & SONS IRRIG., SE, 366.60; COMMUNITY HEALTH, RE, 3.00; COPY WRITE PUBLISHING, SU, 66.74; CITY EMPLOYEE, RE, 64.98; CITY EMPLOYEE,

RE, 53.24; ECHO GROUP, SU, 25.20; ERNEST E PING, SE, 243.00; FLOOR MAINTENANCE, SU, 110.70; FREDRICKSON OIL, SE, 86.98; GALE GROUP, SU, 35.33; GALEN WISER, RE, 30.00; GERHOLD CONCRETE, SU, 169.50; GREAT PLAINS ONE-CALL, SE, 84.30; HARDING & SHULTZ, SE, 6296.07; HD SUPPLY WATERWORKS, SU, 975.51; CITY EMPLOYEE, RE, 136.41; ICMA, SE, 5292.71; INGRAM BOOK COMPANY, SU, 205.70; INTL PUBLIC MANAGEMENT, SU, 1300.00; IRS, TX, 21296.19; JASON CAROLLO, SE, 140.00; JEO CONSULTING GROUP, SE, 4290.50; JOHN'S WELDING AND TOOL, SU, CHANNEL IRON, SU, 45.79; CITY EMPLOYEE, RE, 498.56; KTCH, SE, 925.00; MAIN STREET AUTO CARE, SE, 90.00; MELISSA URBANEC, RE, 30.00; MIDSTATES ERECTORS, SE, 195091.00; MIDWEST LABORATORIES, SE, 1463.53; MORROW'S HOUSEMOVING, SE, 8600.00; MSC INDUSTRIAL, SU, 125.82; NE DEPT OF REVENUE, TX, 3338.76; NE LIBRARY ASSOCIATION, FE, 285.00; NE POWER REVIEW BOARD, SE, 830.36; NE PUBLIC HEALTH, SE, 1936.25; NEBRASKA U.C. FUND, RE, 2402.40; N.E. NE AMERICAN RED CROSS, SE, 59.24; NNPPD, SE, 12180.28; OLSSON ASSOCIATES, SE, 1963.59; OVERDRIVE, INC., SE, 1500.00; PAC N SAVE, SU, 287.73; PAMIDA, SU, 102.32; PRESTO X, SE, 82.14; CITY EMPLOYEE, RE, 359.75; QUALITY FOODS, SU, 23.39; QUILL, SU, 161.08; RANDOM HOUSE, SU, 50.25; CITY EMPLOYEE, RE, 186.40; SPARKLING KLEAN, SU, 2115.25; STATE NATIONAL BANK, RE, 92.66; TIM POWELL, RE, 30.00; TOM ADAMSON, SU, 8.00; FIREMAN, RE, 208.00; UNITED RENTALS, SU, 140.00; UNITED STATES PLASTIC, SU, 91.58; UNITED WAY, RE, 10.00; UTILITIES SECTION, FE, 1793.00; WASTE CONNECTIONS, SE, 57.99; WAYNE HERALD, SE, 336.00; WAYNE VETERINARY CLINIC, SE, 28.00; WESCO, SU, 182.49; WAPA, SE, 31905.64; ZACH HEATING & COOLING, SE, 627.80; APPEARA, SE, 129.08; BELSON OUTDOORS, SU, 838.00; CITY EMPLOYEE, RE, 265.27; BOMGAARS, SU, 1160.81; CARHART LUMBER, SU, 904.39; CITY EMPLOYEE, RE, 34.06; CHILDREN'S SAFETY PUBL, SU, 100.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 531.78; CORNHUSKER STATE IND, SU, 946.25; COUNTRY NURSERY, SU, 84.00; COVENTRY, SE, 22036.74; CUSTOM FILTRATION, SU, 1474.16; DAVE'S DRY CLEANING, SE, 36.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 716.22; ELLIS PLUMBING & HEATING, SE, 103.00; GERHOLD CONCRETE, SU, 420.00; CITY EMPLOYEE, RE, 42.56; ITRON, SE, 2215.05; JEO CONSULTING GROUP, SE, 2275.50; KAY CONTRACTING, SE, 3455.00; KTCH, SE, 80.00; MUNICIPAL SERVICE, SE, 5397.29; N.E. NEB ECONOMIC DEV DIS, SE, 55.00; CITY EMPLOYEE, RE, 347.82; NPPD, SE, 351803.01; PAMIDA, SU, 6.00; PAULSON TIRE SERVICE, SE, 20.00; PITNEY BOWES, SU, 648.00; QUILL, SU, 436.54; REAMS SPRINKLER SUPPLY, SU, 390.51; REHAB SYSTEMS, SE, 15329.50; CITY EMPLOYEE, RE, 10.26; SOLBERG MANUFACTURING, SU, 39000.00; STATE NATIONAL BANK, RE, 100.00; STEVE MUIR, RE, 500.00; TOP HEALTH, SU, 170.52; VAN DIEST SUPPLY, SU, 2024.00; WAYNE AUTO PARTS, SU, 990.21; WEST-E-CON, SE, 1132.00; WIGMAN COMPANY, SU, 446.25

Councilmember Ley made a motion and Councilmember Sturm seconded to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Councilmember Ley made a motion, which was seconded by Councilmember Sturm, to approve the Settlement Agreement (\$65,000) and Release of all Claims regarding the Kate Lassila vs. City of Wayne and Lance Webster matter. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, to approve the claim to Fitzgerald, Vetter, Attorneys-at-Law, in the amount of \$61,685.00 regarding the settlement of the Kate Lassila vs. City of Wayne and Lance Webster matter. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Phil Monahan, Fire Chief, introduced Tyler Mostek and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department.

Councilmember Frevert made a motion, which was seconded by Councilmember Sturm, to approve the membership application of Tyler Mostek to the Wayne Volunteer Fire Department. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve rules for the dog park. This is a combination of what was recommended by both the City's insurance company, EMC, and the Leadership Wayne group.

Jessi Hansen, representing the Leadership Wayne group, was present to answer questions. She noted that dog parks are the fastest growing parks in the United States.

Councilmember Sturm questioned the policing of the park and who would be responsible for enforcing the rules.

Administrator Johnson stated that the dog park would be under city jurisdiction, and violations would be handled the same way as in any other park in the city.

It was suggested that the Leadership Wayne group form a committee to field complaints and help monitor the dog park.

Attorney Miller stated for liability and insurance purposes, a double gate should be installed.

Councilmember Ley introduced Resolution 2012-53, and moved for its approval; Councilmember Sturm seconded.

#### RESOLUTION NO. 2012-53

A RESOLUTION ADOPTING RULES FOR THE CITY OF WAYNE DOG PARK A/K/A "BARK PARK".

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would allocate \$64,000 in property tax to the Wayne Municipal Airport Authority. This is an annual request that the Airport Authority makes to the Council. This amount represents about \$.035 of the \$.45 property tax allocation that the City could receive. Last year's allocation was \$62,000.

Councilmember Alexander introduced Resolution No. 2012-54 and moved for its approval; Councilmember Van Delden seconded.

#### RESOLUTION NO. 2012-54

#### A RESOLUTION AUTHORIZING THE ALLOCATION OF PROPERTY TAXES TO THE WAYNE AIRPORT AUTHORITY.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Garry Poutre, Supt. of Public Works & Utilities, was present and stated that he had received a letter from the Village of Carroll stating that they had been recently evaluated by the Department of Health & Human Services, and that that study revealed shortcomings in Carroll's water storage system. A recommendation from DHHS, other than replacing the current storage system, was to see if they could join with another Rural Water District. He's been advised that they have looked into this briefly, but the elevation problems to the north prohibit feasibility of this as an option. The Rural Water District suggested Carroll explore the possibility of entering into an agreement with the City of Wayne for water. The Village of Carroll is seeking funding to conduct a feasibility study to explore this possibility and to give them an idea of what it might cost to build the infrastructure to Wayne for water. While there is no commitment on the City's part at this time, the Village of Carroll is asking that the Council approve their

request to at least look at the option of getting water from Wayne by way of a feasibility study.

Mark Tietz, Chairman of the Village Board of Carroll, was present to answer questions.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander approving the request of the Village of Carroll to do a feasibility study on building infrastructure to Wayne and purchasing water from the Wayne water system. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The LB840 Sales Tax Advisory Committee met on July 12, 2012, and reviewed an application from Wayne NG Cars, LLC, to Wayne's Economic Development Program Fund. The committee recommended approving a request by Wayne NG Cars, LLC, for a \$250,000 loan guarantee. The terms the committee agreed to included a deadline for closing the loan by December 31, 2012. This project would bring a compressed natural gas vehicle assembly plant to Wayne. This project needs to find conventional financing before the guarantee would be utilized.

The Council previously approved a loan guarantee of \$150,000 to WAED from the Wayne Revolving Loan Funds for this project; however, because of the recent changes in the way the Nebraska Department of Economic Development will be handling revolving loan funds, the original \$150,000 loan guarantee to WAED for Wayne NG Cars, LLC, is no longer available.

Dan Rose, representing Wayne NG Cars, LLC, was present to answer questions.

Councilmember Brodersen made a motion, which was seconded by Councilmember Sturm approving the recommendation of the LB840 Economic Development Advisory Committee to approve a request by Wayne NG Cars, LLC, for a \$250,000 loan guarantee. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the following Ordinance regarding the “Code of Decorum” is brought forward from the last meeting. As of this time, he had not received any comments or changes, as requested at the last meeting, that Council might want regarding this ordinance.

City Clerk McGuire had highlighted those sections in the ordinance that are State Statute and already contained in the City’s Municipal Code book.

Councilmember Frevert stated he was against the “Code of Decorum” in its entirety.

Councilmember Sturm thought it was a good idea to have something in writing.

Mayor Chamberlain also thought this would be helpful for newly elected officials so they have an understanding of their duties and responsibilities.

Councilmember Brodersen liked the idea of looking at this as a “job description” or guidelines for the Council to follow.

Councilmember Ley did not have a problem with the Code of Decorum.

Councilmember Ley introduced Ordinance 2012-28, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2012-28

AN ORDINANCE AMENDING MUNICIPAL CODE CHAPTER 2, ARTICLE II. COUNCIL, DIVISION 1. GENERALLY, BY ADDING SECTION 2-51 CODE OF DECORUM; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Frevert and Haase who voted Nay, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Ley made a motion, which was seconded by Councilmember Alexander, to recess as Council and convene as the Community Development Agency. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Dale Alexander, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Chair Haase advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

The next item on the CDA agenda was to approve the minutes of the June 5, 2012, meeting.

Member Chamberlain made a motion and Member Alexander seconded approving the minutes of the June 5, 2012, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Chair Haase stated the next item on the agenda is to take action on two housing construction applications for Lot 11 and Lot 12 for the Benscoter Addition. Benscoter, Inc., is the applicant.

Administrator Johnson stated two more application have been received for the housing construction incentive program which was approved in April and provides short-term zero percent interest construction loans of \$20,000 per single-family structure for homes built and sold to households with annual incomes of 150% of the Wayne County median income or less. This request from Benscoter, Inc., is for \$40,000 for two market rate homes, which are being built on two individual lots in the Benscoter Addition. This is two of five homes planned for construction in this subdivision.

Attorney Miller requested the following changes be made to the Application:

“Terms of agreement:

1. ~~Funds will only be advanced upon Builder/buyer’s proof of participation in the Energy Star Program and copies of invoice from builder are received.~~ **Provide EPA Energy Star Certificate at completion of construction to ensure Energy Star Compliance.**
2. Eligible home buyers must have an annual household incomes of no more than 150% median income for Wayne County
3. Builder will be eligible for two incentive loans at a time.
4. Builder will be eligible for \$20,000 construction loan per speculative housing unit and \$30,000 per housing unit being built by an owner of a lot, at 0% interest until date of sale or (4) four years, which ever comes first, from LB840 funds or other funds provided by the city with payback from the ~~home buyer~~ **applicant** at time of permanent financing.
5. Construction loan will be secured by a Deed of Trust on the property and subordinate to commercial or private construction financing.
6. Houses must be ready for occupancy permit (within 24 months of date of execution) of incentive agreement.

7. Proof of construction loan is required at time of application.
8. Penalties for not completing house within the required 24 months are:
  - a. ~~If primary construction loan is not secured within 6 months of approval of the incentive or the City incentive loan become void.~~
  - b. Failure to provide EPA Energy Star Certificate at completion of construction to ensure Energy Star Compliance the City incentive loan becomes void.
  - c. If the house is not ready for occupancy within 24 months the builder is not eligible for future city incentives.
  - d. If the house does not have an occupancy permit within the 24 months, the loan is in default and due immediately at 5% interest from the date of loan approval.

Member Chamberlain made a motion and Member Sturm seconded approving the Housing Construction Incentive Applications (\$40,000) of Benscoter, Inc., for Lots 11 and 12, Benscoter Addition Planned Unit Development Replat 1, with the changes recommended by City Attorney Miller. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Alexander made a motion and Member Van Delden seconded to adjourn as the Community Development Agency and reconvene as Council. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson gave an update on the Strategic Planning Session between WAED, the City, County, School, Hospital, and College.

Administrator Johnson reviewed some new housing construction incentives. He will prepare some draft documents for Council to review at a later time.

Administrator Johnson provided an initial review of the budget assumptions.

Discussion took place in regard to setting a date for budget work sessions. Council consensus was to set the budget work sessions for Monday, July 30, 2012, at

5:30 p.m., in Council Chambers. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:59 p.m.