

**MINUTES
CITY COUNCIL MEETING
August 7, 2012**

The Wayne City Council met in regular session at City Hall on Tuesday, August 7, 2012, at 5:40 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Jim Van Delden, Jon Haase and Dale Alexander.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on July 26, 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 Frevert made a motion, which was seconded by Councilmember Sturm, whereas the Clerk has prepared copies of the Minutes of the meeting of July 17, 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:

CORRECTIONS TO CLAIMS LIST OF 6/5/12: DELETE Y&Y LAWN SERVICE, SE, 205.00

CORRECTIONS TO CLAIMS LIST OF 6/19/12: DELETE ROBERT WOehler & SONS, SE, 2090.00

VARIOUS FUNDS: 4IMPRINT, SU, 697.00; ADVANCED CONSULTING, SE, 2100.00; AMAZON.COM, SU, 496.84; AMERICAN BROADBAND, SE, 2249.58; AMERITAS, SE, 1930.95; APPEARA, SE, 208.56; ARNIE'S FORD-MERCURY, SU, 309.66; AS CENTRAL SERVICES, SE, 448.00; ATCO INTERNATIONAL, SU, 55.20;

BANK FIRST, SE, 120.00; CITY EMPLOYEE, RE, 128.62; BIG T ENTERPRISES, SU, 11.00; BLACK HILLS ENERGY, SE, 439.13; BOMGAARS, SU, 46.74; BOMGAARS, SU, 1961.03; CITY EMPLOYEE, RE, 198.93; BROWN SUPPLY, SU, 93.35; CITY EMPLOYEE, RE, 72.08; CARHART LUMBER, SU, 631.03; CENTURYLINK, SE, 312.01; CITY EMPLOYEE, RE, 17.69; CITY OF NORFOLK, SE, 204.21; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 120.00; CITY OF WAYNE, RE, 40.00; CITY OF WAYNE, PY, 66872.74; CITY OF WAYNE, RE, 30.00; CITY OF WAYNE, RE, 225.00; CLAUSSEN & SONS IRRIG., SE, 264.86; COMMUNITY HEALTH, RE, 3.00; CONTINENTAL FIRE SPRINKLER, SE, 210.00; COUNTRY NURSERY, SE, 857.40; CREDIT BUREAU SERVICES, SE, 450.00; DAKOTA BUSINESS SYSTEMS, SE, 103.50; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEMCO, SU, 205.79; DGR & ASSOCIATES, SU, 72.00; DONNA TIETSORT, RE, 50.00; CITY EMPLOYEE, RE, 112.77; DUTTON-LAINSON, 624.05; EAKES OFFICE PLUS, SU, 56.97; EASYPERMIT POSTAGE, SU, 599.28; ECHO GROUP, SU, 78.93; EDWARD JONES, RE, 200.00; CITY EMPLOYEE, RE, 1676.18; EGAN SUPPLY, SU, 42.13; ELECTRIC FIXTURE & SUPPLY, SU, 51.79; ELLIS PLUMBING & HEATING, SE, 72.00; EMERITUS, RE, 120.00; FASTENAL, SU, 39.03; FIRST CONCORD, SE, 3095.79; FLOOR MAINTENANCE, SU, 444.65; FORT DEARBORN LIFE, SE, 110.08; GERHOLD CONCRETE, SU, 861.26; GILL HAULING, SE, 155.00; GROSSENBURG IMPLEMENT, SU, 955.19; HAWKINS, SU, 1086.08; HILLYARD/SIOUX FALLS, SU, 34.25; CITY EMPLOYEE, RE, 364.00; HOLIDAY INN OF KEARNEY, SE, 163.90; ICMA, SE, 5292.71; INTERSTATE ALL BATTERY, SU, 216.75; IRS, TX, 27763.70; JEO CONSULTING GROUP, SE, 6447.20; JON HAASE, RE, 30.00; KRIZ-DAVIS, SU, 23852.65; L.G. EVERIST, SU, 641.84; LAYNE CHRISTENSEN, SE, 746.00; LEAGUE OF NEBRASKA, FE, 5920.00; CITY EMPLOYEE, RE, 3075.09; LOU WILTSE, RE, 500.00; MCGUIRE & NORBY, SE, 10450.47; MIDLAND EQUIPMENT, SU, 59.29; MIDWEST OFFICE AUTOMATION, SE, 1314.84; MIKE TOWNE, SE, 300.00; MISS MOLLY'S COFFEE, SE, 127.80; MSC INDUSTRIAL, SU, 385.72; MULTIMEDIA SALES & MARKET, SE, 313.50; CITY EMPLOYEE, RE, 541.45; NE DEPT OF REVENUE, TX, 3307.11; NE SAFETY COUNCIL, SE, 11.49; NIAGARA CONSERVATION CORP, SU, 966.81; NORFOLK SPORTING GOODS, SU, 38.50; N.E.NE AMERICAN RED CROSS, RE, 29.62; NNPPD, SE, 3475.00; NORTHWEST ELECTRIC, SU, 187.40; OLSSON ASSOCIATES, SE, 5769.28; OVERHEAD DOOR, SE, 157.50; PEAKER SERVICES, SE, 4394.41; POLLARD PUMPING, SE, 935.00; QUALITY 1 GRAPHICS, SU, 160.00; QUILL CORPORATION, SU, 928.25; REHAB SYSTEMS, SU, 5750.00; RO DON CORPORATION, SU, 644.03; RON'S RADIO, SU, 4932.70; RUDOLPH'S SHOES, SU, 154.60; SALMON WELL, SE, 516.28; STADIUM SPORTING GOODS, SU, 575.00; T & S TRUCKING, SE, 226.53; TOM'S BODY & PAINT SHOP, SE, 218.01; UNITED RENTALS, SE, 80.00; UNITED WAY, RE, 5.00; US BANK, SU, 2068.21; VERIZON, SE, 276.90; VIAERO, SE, 170.90; WATERLINK, SU, 4661.56; WAED, SE, 6383.33; WAYNE COUNTY COURT, RE, 400.00; WAYNE HERALD, SU, 46.00; WAYNE ROTARY, FE, 160.00; WAYNE RURAL FIRE, SU, 8.78; WESCO, SU, 30455.79; CITY EMPLOYEE, RE, 150.00; CITY EMPLOYEE, RE, 602.70; CITY EMPLOYEE, RE, 195.22; CITY EMPLOYEE, RE, 229.54; CHARTWELLS, SE,

5438.00; COPY WRITE, SU, 139.25; DANKO EMERGENCY EQUIPMENT, SU, 24.00; DUTTON-LAINSON, SU, 40.68; EMERITUS, RE, 120.00; FASTENAL, SU, 6.90; FELD FIRE, SU, 131.28; FREDRICKSON OIL, SU, 563.85; GERHOLD CONCRETE, SU, 945.00; GREAT PLAINS ONE-CALL, SE, 90.54; HAWKINS, SU, 1534.02; HTM SALES, SU, 238.44; INTERSTATE ALL BATTERY, SU, 285.39; JASON CAROLLO, SE, 175.00; JEO CONSULTING GROUP, SE, 2538.50; JOHN'S WELDING AND TOOL, SU, 89.00; KTCH, SE, 755.00; MICHAEL TODD & CO, SU, 1541.31; MIDSTATES ERECTORS, SE, 114685.00; MIDWEST LABORATORIES, SE, 1333.95; MISC, RE, 350.00; MUNICIPAL PIPE SERVICE, SU, 5773.01; N.E. NEB ECONOMIC DEV DIS, SE, 480.00; NE DEPT OF ENVIRONMENTAL, FE, 150.00; NE PUBLIC HEALTH ENVIRONM, SU, 367.00; NE SAFETY COUNCIL, SE, 191.89; NNPPD, SE, 12428.90; PAC N SAVE, SU, 24.12; PEPSI-COLA, SU, 262.25; PIEPER & MILLER, SE, 4194.00; PLUNKETT'S PEST CONTROL, SE, 91.52; PRESTO X, SE, 123.08; QUILL, SU, 125.65; ROBERT WOEHLER & SONS, SE, 19961.05; RUDOLPH'S SHOES, SU, 144.49; S & S WILLERS, SU, 256.45; STATE NATIONAL BANK, SE, 59.28; TAK, INC, SE, 39.00; TOM'S BODY & PAINT SHOP, SE, 206.00; TOP HEALTH, SU, 170.52; UTILITIES SECTION, SU, 95.00; WASTE CONNECTIONS, SE, 450.40; WAYNE AUTO PARTS, SE, 207.38; WAYNE COUNTRY CLUB, RE, 450.00; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SE, 4195.92; WAYNE VETERINARY CLINIC, SE, 476.00; WAPA, SE, 33308.52; ZACH HEATING & COOLING, SE, 287.90; ZACH OIL CO, SU, 5140.90

Councilmember Sturm made a motion and Councilmember Ley 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.

Tom Higginbotham, Executive Director, and Lisa Hurley, Community Planning Supervisor, of Northeast Nebraska Economic Development District presented the Doug

Bereuter Accomplished Community Award for showing continuous progress over the past couple of years, evidenced by the projects Wayne has been able to produce.

Mayor Chamberlain went to Agenda Item no. 15 and declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-754 Nonconforming Uses by adding (I) Heavy Industry.

Dave Copple, Attorney representing Woehler & Sons, Inc., was present to advise the Council that they stand in opposition to the proposed amendments. He was of the understanding after conferring with City Attorney Miller, that the matter will be tabled for further discussion with representatives of Woehler & Sons, Inc., in order to try and find a solution with respect to their existing business. They take the position that they are a conforming use under Wayne's current zoning ordinance of 90-352.5 and 90-353.1; that the laws of the State of Nebraska are such that the City cannot and is not in a position to retroactively go back and try to rezone something and eliminate a current permitted use; and that the business they are in and the location's use has been recognized by the City of Wayne as a permitted use and that to do so would be contrary to laws of the State of Nebraska.

Attorney Miller recommended that the Council table this matter until January, 2013.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Ley made a motion, which was seconded by Councilmember Berry, to table action on Ordinance No. 2012-34 until the second Council meeting in January (January 15, 2013).

It was noted that if the proposed Ordinance would be passed, it would have a wide ranging effect on a lot of businesses and even some residential properties.

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

Wes Blecke, Executive Director of Wayne Area Economic Development, requested Council consideration to waiving Section 18-341 of the Wayne Municipal Code regarding sign requirements and prohibition of signs projecting over the sidewalk in a commercial district. The sign will be located on the building at 103 W. 3rd Street. The sign would hang over the sidewalk by approximately 4' and would be at least 8' above the sidewalk. The sign is 4' x 2'3".

Section 18-341 of the Wayne Municipal Code states that it is unlawful for any person to erect or place any business sign or awning in, on or over any sidewalk, street, or public property in the city without obtaining a permit from the Council.

Councilmember Sturm made a motion, which was seconded by Councilmember Brodersen, approving the request of Wayne Area Economic Development to waive the requirements of Section 18-341 of Wayne Municipal Code and allow them to erect a sign at their building located at 103 W. 3rd Street. Mayor Chamberlain stated the motion, and the result of roll call being all yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-

90-10 Definitions, by adding Agricultural Industry, Light Industry, General Industry and Heavy Industry.

Joel Hansen, Zoning Administrator, stated the discussion and proposed amendments stemmed from a complaint he received regarding concrete crushing in a B-1 zone. When reviewing the code, it appeared there wasn't clear language therein that allowed this use. If the use is not specifically identified in the code, it is not permitted. This proposed language, which was prepared and recommended by RDG (Omaha firm who is assisting the Zoning Steering Committee with updating the zoning language) gives a broader area to take a business that is coming to Wayne that may not be listed specifically in the code and fit them into one of these categories. The Planning Commission's intent was to recommend new language that would better define industrial uses and the appropriate location for them within the City's zoning jurisdiction. This would not pertain to any existing businesses, only new businesses.

The Planning Commission reviewed this information at their public hearings held on April 2 and July 2, 2012, and forwarded a recommendation to approve the same subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

City Clerk McGuire had not received any comments for or against this public hearing.

Councilmember Haase arrived at 6:15 p.m.

BJ Woehler spoke against the passage of the proposed ordinances and thought the Council should table the same.

Attorney Miller advised the Council that they have three options:

- Pass the ordinance, which will change the definitions and include concrete crushing as a heavy industry. This would allow Woehler's to continue crushing concrete, but they would not be allowed to expand that business. In addition, no new concrete crushing businesses could come to B-1 zoning districts; or
- Not pass the ordinance; or
- Table it along with the other ordinances being proposed.

Wes Blecke, Executive Director of WAED, asked if more definitions are being added, will it make it easier for businesses or put more restrictions on them? He also wanted to make sure that the actions taken are in the best interests of the existing businesses in Wayne.

Mr. Hansen reiterated that these amendments are not creating any zoning districts. These are definitions which will streamline and simplify the process for businesses coming to Wayne.

Lynelle Sievers, Carol Bauermeister and Audra Farrington, property owners who reside in the area of this concrete crushing business, shared their concerns and experiences when concrete is being crushed.

Ken Kwapnioski, who owns a building in the area, said there is a huge amount of dust that comes from the field across the creek during harvest. There is also a grain elevator in the area, and half of Arnie's Ford Mercury, when they are loading or unloading grain, gets covered with dust. There is more to talk about than just concrete dust.

Kent Franzen stated he was on the Zoning Committee and he found the definitions troubling. He sees this as complicating the issue and not making it better.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Berry made a motion, which was seconded by Councilmember Sturm, to table action on Ordinance No. 2012-29 until the second meeting in January (January 15, 2013).

Councilmember Sturm asked the Council that when they look at this, that they look at it from both a residential standpoint and a business standpoint. If the business would keep the dust on their property, it would solve a lot of problems.

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

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-114 Exceptions in the A-1 Agricultural Zone by adding (24) Heavy Industry.

Joel Hansen, Zoning Administrator, stated that since the ordinance amending the definitions has been tabled, the remaining items should be tabled as well.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Sturm made a motion, which was seconded by Councilmember Frevert, to table action on Ordinance No. 2012-30 until the second meeting in January (January 15, 2013). Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-

482 Permitted Principal Uses and Structures in the I-1 Light Industrial and Manufacturing Zone by adding (46) Light Industry and (47) General Industry.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Frevert made a motion, which was seconded by Councilmember Haase, to table action on Ordinance No. 2012-31 until the second meeting in January (January 15, 2013). Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-484 Exceptions in the I-1 Light Industrial and Manufacturing Zone by adding (5) Heavy Industrial.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Ley made a motion, which was seconded by Councilmember Frevert, to table action on Ordinance No. 2012-32 until the second meeting in January (January 15, 2013). Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-512 Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone by adding

(56) Agricultural Industry, (57) Light Industry, (58) General Industry and (59) Heavy Industry.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Brodersen made a motion, which was seconded by Councilmember Sturm, to table action on Ordinance No. 2012-33 until the second meeting in January (January 15, 2013). Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place on Ordinance 2012-28 regarding the Code of Decorum.

Mayor Chamberlain stated he had received some concerns from Councilmembers regarding this ordinance. A question was brought forward whether or not this would be a good time to add a section regarding Councilmember attendance. The other issue brought forward was the section regarding "Elected Officials Conduct in Public Meetings".

Administrator Johnson stated if Council provides the changes, staff can make those and bring the same back to Council for action.

Councilmember Sturm thought Council should be at meetings at least 70% of the meetings. There needs to be a commitment.

Kent Franzen, as a member of the public, also asked that the Council enforce the 3 minute speaking limit on staff as well. In his experience with another body, these rules can be used to suppress opposition, and that is something he has attained a great distaste for.

It was noted that State Statute provides that if an elected official misses 5 consecutive meetings, a vacancy will exist.

Councilmember Ley made a motion, which was seconded by Councilmember Frevert, to table action on the second reading of Ordinance No. 2012-28 until the next meeting, and allow staff to make changes for Council consideration. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sturm who voted Nay, the Mayor declared the motion carried.

The following Ordinance would release and abandon the side yard utility easements on Lots 5 and 6, Fairway Estates Subdivision. The purchaser of the lots wants to build one home on these two lots.

Councilmember Brodersen introduced Ordinance 2012-35, and moved for approval thereof; Councilmember Ley seconded.

ORDINANCE NO. 2012-35

AN ORDINANCE AUTHORIZING THE RELEASE AND ABANDONMENT OF THE SIDE YARD UTILITY EASEMENTS CONSISTING OF THE EAST 7 FEET OF SIDE-YARD UTILITY EASEMENT IN LOT 5 AND THE WEST 7 FEET OF SIDE-YARD UTILITY EASEMENT IN LOT 6, FAIRWAY ESTATES SUBDIVISION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

The following Resolution would approve a "Permit Agreement" with Arnie's Ford, Inc., regarding the use of public right-of-way.

Garry Poutre, Superintendent of Public Works & Utilities, stated Arnie's Ford would like to set some security cameras in the lot north of the dealership and on their

property to the east where the old Pit Stop gas station used to be. In trying to determine the best way to run data wire from those properties to a central location (the main office in the dealership building), he recommended having a directional boring crew come to town and install conduits across the right-of-ways of Logan Street and East Third Street to pull the data wire from those other two locations back to the main building. This is similar to what the City did with Inventive Communications about 8 years ago when they asked to run data lines across our right-of-ways between their buildings.

Councilmember Ley introduced Resolution No. 2012-55 and moved for its approval; Councilmember Berry seconded.

RESOLUTION NO. 2012-55

A RESOLUTION APPROVING AN AGREEMENT WITH ARNIE'S FORD, INC., REGARDING THE USE OF PUBLIC RIGHT-OF-WAY.

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

Administrator Johnson stated we have received Change Order No. 1, which is an increase of \$12,390.40 to Elkhorn Paving Company for the Pheasant Run Road Paving Project.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, approving Change Order No. 1 in the amount of \$12,390.40 for the Pheasant Run Road Paving Project. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

A pay request has been received from Elkhorn Paving Company for the Pheasant Run Road Paving Project in the amount of \$24,296.90. The engineer on the project has approved the same.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, approving Application for Payment – Final for the Pheasant Run Road Paving Project in the amount of \$24,296.90 to Elkhorn Paving Company.

A pay request has been received from Luxa Construction for the Western Ridge Paving Project – Phase II in the amount of \$135,531.44. The engineer on the project has approved the same.

Councilmember Ley made a motion, which was seconded by Councilmember Sturm, approving Application for Payment No. 1 for the Western Ridge Paving Project – Phase II in the amount of \$135,531.44 to Luxa Construction.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, 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, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Jim Van Delden and Dale Alexander.

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 July 17, 2012, meeting.

Member Chamberlain made a motion and Member Ley seconded approving the minutes of the July 17, 2012, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to consider and take action on CDA Resolution 2012-5 authorizing the issuance of tax increment revenue bond (Benscoter Project).

Member Chamberlain introduced CDA Resolution No. 2012-5 and moved for its approval; Member Sturm seconded.

CDA RESOLUTION NO. 2012-5

A RESOLUTION OF THE CITY OF WAYNE, NEBRASKA, ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE ACTING AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF SAID CITY; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY DEVELOPMENT LAW; AUTHORIZING THE SALE OF SAID BOND; PROVIDING FOR A GRANT; PROVIDING FOR A REDEVELOPMENT CONTRACT AND PROVIDING FOR THIS RESOLUTION TO TAKE EFFECT.

Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Discussion took place on a proposed new housing construction loan incentive program.

The existing "New Housing Construction Loan Incentive Program" provides a \$20,000 construction loan at 0% interest for contractors that build new single-family homes. The loan is repaid by the contractor when the house is sold. If the applicant is an owner building his/her own home, the incentive or loan is to be repaid when the owner secures a mortgage on the completed house. At the annual School/City/County planning retreat in July, it was proposed that we would get more interest in the program if we let

private lenders make the loans, and the City's incentive be amended to eliminate any direct loan and replace that with:

- A buy-out of the interest cost of the construction loan to build the house; and
- Payment of the real estate taxes accrued until the house is sold up to a maximum of 24 months, whichever comes first for spec homes.

The incentive for real estate taxes would apply only for construction of spec homes. It could also be possible to extend this incentive to multi-unit apartments until such time as they are 70% rented out, sold, or 24 months has passed, whichever comes first. If this amendment would be approved, the money (buy-out of interest or payment of real estate taxes) would not get recaptured to pay back to the electric fund.

Member Sturm made a motion to approve the proposed new housing construction loan incentive program. The said motion died for lack of a second.

The original incentive program stays as is.

Member Ley made a motion and Member Frevert 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.

The following Resolution would approve the amended redevelopment plan for the Benscoter Addition Planned Unit Development Replat 1. This is to correct an error in the redevelopment plan prepared by Attorney Bacon.

Councilmember Ley introduced Resolution No. 2012-56 and moved for its passage and approval:

RESOLUTION NO. 2012-56

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA APPROVING A REDEVELOPMENT PLAN AMENDMENT; AND RELATED MATTERS

Councilmember Sturm seconded the motion. On roll call vote, the following Councilmembers voted in favor of the motion: Frevert, Haase, Sturm, Ley, Berry and Brodersen. The following Councilmembers were absent or did not vote: Van Delden and Alexander.

The passage of Resolution No. 2012-56 having been agreed upon by a majority of the Council, the Mayor declared Resolution No. 2012-56 passed and, in the presence of the Council, signed and approved Resolution No. 2012-56. The Clerk attested to the passage of Resolution No. 2012-56 by signing the same and affixing the seal of the City to Resolution No. 2012-56.

Discussion took place regarding proposed new market rate apartment housing construction incentives on lots previously cleared through property maintenance code enforcement at city cost.

The intent of this incentive proposal would be to resolve the City's problem of not being able to offer TIF financing for new construction on lots that were cleared by the City during property maintenance code enforcement, and the City now owns them through filing liens for non-payment by the owner, and foreclosing on them. Since the City paid the cost of demolition and removal on those properties, the City is not eligible to recover those costs through TIF. The City can only recover the demolition and clearing costs through future property taxes from private new construction on those lots. In the past, the City has auctioned these types of lots for construction of single-family homes.

Administrator Johnson advised the Council that there is a contractor who is getting ready to make an offer on two City-owned lots. This is the fastest way for the City to recover the tax dollars back that were spent clearing these lots.

Council consensus was to move forward with the new market rate apartment housing construction incentive program.

Administrator Johnson stated in the list of our housing incentives, there is a current requirement for participation in the Energy Star Program. The Federal rebates and incentives for that program may not get renewed. He was suggesting Council amend the program so that this requirement is contingent on the continuation of the Federal Energy Star incentives.

Councilmember Brodersen made a motion, which was seconded by Councilmember Frevert, amending the current housing incentive program so that the requirement of participating in the Energy Star program is contingent upon their being federal funding for the same. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

An agreement has been received from Eisenbraun & Associates for design and construction services on the 10th Street, Main to Windom Reconstruction Project. Said agreement provides “Design Services” at a cost of \$17,160.00, and “Construction Engineering Services” at a cost \$82,800.00, totalling \$99,960.00. The Eisenbraun Agreement was amended to be a not to exceed proposal rather than lump sum fee.

Construction should begin next summer if the design is completed this fall.

Councilmember Ley introduced Resolution No. 2012-57 and moved for its approval.

Further discussion took place on the proposal and the thought that it was too high.

Councilmember Frevert seconded.

RESOLUTION NO. 2012-57

A RESOLUTION APPROVING AGREEMENT FOR SERVICES BETWEEN THE CITY OF WAYNE AND EISENBRAUN & ASSOCIATES FOR THE 10TH STREET, MAIN TO WINDOM STREET RECONSTRUCTION PROJECT, AND AUTHORIZING THE USE OF LOCAL FUNDS TO BE REIMBURSED BY FUTURE ALLOCATIONS OF STATE HIGHWAY STP REPLACEMENT FUNDS FOR SAID PROJECT.

Mayor Chamberlain stated the motion, and the result of roll call being all Nays, the Mayor declared the motion failed.

Councilmember Sturm made a motion, which was seconded by Councilmember Haase, directing staff to go back to Eisenbraun & Associates and negotiate a lesser fee.

Councilmember Sturm withdrew his motion, as did Councilmember Haase on the second.

Discussion took place in regard to what Council wanted to do with its Wayne Revolving Loan Funds. A decision needed to be made and sent to the Nebraska Department of Economic Development. The City can continue collecting the loans and send the money back to the State; reassign the loans to DED; or forgive the loans.

Mayor Chamberlain asked if the City could borrow money from reserves and start its own revolving loan fund. He suggested that the City could rewrite the loans that are already in place, collect the money plus interest, send DED back their funds, and we have our own revolving loan fund. Councilmember Sturm thought it was too complicated.

Kent Franzen stated he would be remiss if he didn't advise the Council to do everything they can to keep staff out from under the heavy boot of HUD.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, to return the Wayne Revolving Loan Fund cash balance to the Nebraska Department of Economic Development, and to continue collecting the outstanding loans and remit the funds to the Nebraska Department of Economic Development. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Haase made a motion, which was seconded by Councilmember Ley, 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 8:12 p.m.