

**MINUTES  
CITY COUNCIL MEETING  
August 21, 2012**

The Wayne City Council met in regular session at City Hall on Tuesday, August 21, 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 August 9, 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 Alexander, whereas the Clerk has prepared copies of the Minutes of the meeting of August 7, 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 AUGUST 7, 2012:** DELETE: CITY OF WAYNE, RE, 475.00; INTERSTATE BATTERY, SU, 11.00; NORFOLK SPORTING GOODS, SU, 38.50; RUDOLPH'S SHOES, SU, 144.49

**VARIOUS FUNDS:** AMERICAN PUBLIC POWER, FE, 982.50; AMERITAS, SE, 1777.71; APPEARA, SE, 209.87; AXELS AND GEARS, SU, 549.00; BANK FIRST, SE, 120.00; CITY EMPLOYEE, RE, 130.54; BROWN SUPPLY, SU, 6119.41; CEDAR-KNOX PUBLIC POW DST, SE, 211.00; CITY EMPLOYEE, RE, 158.02; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, PY, 63359.55; CITY OF WAYNE, RE, 125.00; COMMUNITY HEALTH, RE, 3.00; CITY EMPLOYEE, RE, 247.14; COVENTRY HEALTH, SE,

20584.24; DISPLAY SALES COMPANY, SU, 385.00; CITY EMPLOYEE, RE, 211.81; CITY OF WAYNE, RE, 95.69; FLOOR MAINTENANCE, SU, 390.48; GERHOLD CONCRETE, SU, 2561.00; GOV'T FINANCE OFFICERS, FE, 170.00; GROSSENBURG IMPLEMENT, SE, 504.67; H.K. SCHOLZ CO, SE, 47552.25; HARDING & SHULTZ, SE, 9283.73; HAWKINS, SU, 330.96; HD SUPPLY WATERWORKS, SU, 5770.46; CITY EMPLOYEE, RE, 112.58; ICMA, SE, 5306.49; INDUSTRIAL CHEM LABS, SU, 926.61; IRS, TX, 20044.59; JASON CAROLLO, SE, 25.00; CITY EMPLOYEE, RE, 57.69; KRIZ-DAVIS, SU, 391.92; LANGEMEIER, WAYNE, SE, 50.00; LUXA CONSTRUCTION, SE, 135531.44; NNEDD, SE, 930.00; CITY EMPLOYEE, RE, 432.58; NDED, RE, 345587.13; NE DEPT OF REVENUE, TX, 3120.20; NE SAFETY COUNCIL, FE, 295.00; NPPD, SE, 394215.35; OLSSON ASSOCIATES, SE, 6254.33; PITNEY BOWES, SE, 648.00; CITY EMPLOYEE, RE, 471.90; PUSH-PEDAL-PULL, SE, 54.00; REHAB SYSTEMS, SE, 19965.00; ROGER & JANIS MYERS, RE, 500.00; RONALD WRIEDT, SE, 50.00; SHERWIN WILLIAMS-NORFOLK, SU, 244.95; SIOUX CITY JOURNAL, SU, 203.84; SPARKLING KLEAN, SE, 2208.15; STAND FOR THE SILENT, RE, 600.00; VAN DIEST SUPPLY, SU, 100.59; WAED, RE, 460.00; WAYNE COUNTY CLERK, FE, 79.00; WESCO, SU, 528.24; ZEE MEDICAL SERVICE, SU, 87.25; 4IMPRINT, SU, 881.36; AMAZON.COM, SU, 183.93; BAKER & TAYLOR BOOKS, SU, 596.62; BLACK HILLS ENERGY, SE, 33.90; BOMGAARS, SU, 43.76; CITY EMPLOYEE, RE, 91.39; CITY EMPLOYEE, RE, 77.72; BROWN TRAFFIC PRODUCTS, SU, 194.00; CITY EMPLOYEE, RE, 150.00; CENTURYLINK, SE, 310.77; CITY OF NORFOLK, SE, 286.89; CITY OF WAYNE, RE, 1000.00; CITY OF WAYNE, RE, 138.00; CITY OF WAYNE, RE, 105.92; DAKOTA BUSINESS SYSTEMS, SE, 103.50; JACK'S UNIFORMS, SU, 5995.90; DE LAGE LANDEN FINANCIAL, SE, 394.00; DGR & ASSOCIATES, SE, 180.00; CITY EMPLOYEE, RE, 774.59; EGAN SUPPLY, SU, 24.27; ELLIS PLUMBING & HEATING, SE, 6145.82; FASTENAL, SU, 9.14; FORT DEARBORN LIFE, SE, 1580.11; GERHOLD CONCRETE, SU, 504.00; HEARTLAND PAPER, SU, 74.32; JANWAY COMPANY, SU, 145.65; JESSICA BOLLES, RE, 37740.00; CITY EMPLOYEE, RE, 127.32; KLEIN ELECTRIC, SE, 22140.80; KRIZ-DAVIS, SU, 650.56; CITY EMPLOYEE, RE, 86.86; LOUIS BENSOTER, RE, 135000.00; MARK KAI, RE, 449.22; MICHAEL TODD & CO, SU, 404.73; MICROFILM IMAGING SYSTEMS, SE, 668.04; NE LIBRARY COMMISSION, SU, 1000.00; OCLC, SU, 104.57; CITY EMPLOYEE, RE, 182.49; QUILL, SU, 145.57; RANDOM HOUSE, SU, 30.00; SGP SERVICES, SE, 79.88; STATE NATIONAL BANK, RE, 217.13; T & S TRUCKING, SU, 222.21; THE GLASS EDGE, SU, 379.00; UTILITIES SECTION, FE, 2553.00; VERIZON, SE, 220.35; VOSS LIGHTING, SU, 56.75; WAED, RE, 139.00; WAYNE COMMUNITY SCHOOLS, RE, 2417.84; WESCO, SU, 108.63

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.

Elise Hepworth updated the Council on some of the events and programs that are being scheduled the first week of September for the “Stand for the Silent” anti-bullying cause.

Mayor Chamberlain proclaimed the month of September as “Stand for the Silent” month.

Administrator Johnson stated he received a housing development proposal from Kelby Herman with the following terms:

1. Mr. Herman would purchase, for \$500 each, the empty lots the City owns at:
  - a. 509 Nebraska Street (Lot 4, and 8 feet of the vacated alley, Block 7, North Addition)
  - b. 418 West 1<sup>st</sup> Street (East 48 feet of West 100 feet of Lots 4, 5, and 6, Block 24, Original Town)
2. Mr. Herman would construct market rate rental properties on each lot within 24 months of acquiring them.
3. The City would execute a TIF Financing Agreement, based upon the resale value of the lots, to Mr. Herman’s development company.
4. There would be available to Mr. Herman the \$5,000 per unit loan program that is similar to the "New Home" loan program, with the terms amended to 5 years at 0%.

Mr. Herman wants to build a duplex on the West 1<sup>st</sup> Street lot and a four or five plex on the Nebraska Street property. The lots are big enough to build these units, plus accommodate parking in the back.

Kelby Herman was present to answer questions.

Councilmember Ley made a motion, which was seconded by Councilmember Van Delden, directing the City Attorney to prepare a Purchase Agreement and authorizing the Mayor to execute the same on behalf of the City. 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, provided the Council with the six-month LB 840 update.

Gene Hansen, Superintendent of Electric Production, updated the Council on the new megawatt peak set this summer and the new Catalytic Converters and Cooling Tower Projects.

The following Resolution would approve Contract Amendment #1 to the Letter Agreement for professional services with Olsson Associates for the RICE NESHAP Compliance Project for a fee of not to exceed \$45,000. Said additional services will be:

- Oversee the installation of all RICE NESHAP compliance equipment procured as a part of the first phase of the project;
- Coordinate certification testing of the catalytic equipment with the NDEQ and perform the testing necessary to certify the equipment for compliance with the requirements of RICE NESHAP 4Z; and
- Close out the project by supplying all certification test results and related paperwork to the NDEQ on behalf of the City of Wayne and provide copies of all submittals to the City; and

Councilmember Sturm introduced Resolution No. 2012-59 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2012-59

A RESOLUTION APPROVING CONTRACT AMENDMENT #1 TO THE LETTER AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF WAYNE AND OLSSON ASSOCIATES FOR THE RICE NESHAP COMPLIANCE PROJECT.

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

The following Resolution would approve a Memorandum of Understanding between the City of Wayne and Providence Medical Center. Tom Lee, Providence Medical Center Administrator, stated that PMC is applying for a 340B drug program. The contract requires that they develop an MOU with a state or local government to provide health care services to low income individuals who are not entitled to Medicare or Medicaid benefits at no reimbursement or considerably less than full reimbursement from these patients. This will allow them to get some of their drugs at an average wholesale price, which will be a savings for both PMC and the residents being served as well.

Councilmember Sturm introduced Resolution No. 2012-61 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2012-61

A RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WAYNE AND PROVIDENCE MEDICAL CENTER.

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

A request has been received from Wayne Grain & Feed to use city owned property on which to stockpile corn if needed.

Councilmember Brodersen made a motion, which was seconded by Councilmember Ley approving the request of Wayne Grain & Feed to use city owned property to stockpile corn, if needed. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The following Resolution is a requirement by the Nebraska Department of Roads when a state highway will be closed for a celebration/parade. This Resolution pertains to the Wayne State College Homecoming Parade, which will include Band Day, on Saturday, September 29, 2012.

Councilmember Sturm introduced Resolution No. 2012-58 and moved for its approval; Councilmember Alexander seconded.

#### RESOLUTION NO. 2012-58

A RESOLUTION ACKNOWLEDGING NEBRASKA DEPARTMENT OF ROADS' REQUIREMENTS FOR THE TEMPORARY USE OF THE STATE HIGHWAY SYSTEM FOR SPECIAL EVENTS.

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

Administrator Johnson stated a new agreement has been reached with Wayne State College regarding the sharing of law enforcement resources at the college. The hours had been reduced from 32 to 22 hours per week last year, and will remain at 22 again this year. In addition, the amount that the College paid for said services had been reduced from \$42,000 to \$30,000 last year and will stay at \$30,000 this year.

Councilmember Frevert introduced Resolution No. 2012-60 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2012-60

A RESOLUTION APPROVING INTERLOCAL AGREEMENT TO SHARE LAW ENFORCEMENT RESOURCES BETWEEN THE CITY OF WAYNE AND WAYNE STATE COLLEGE.

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

Joel Hansen, Certified Street Superintendent, stated the following Resolution would approve only the design portion of the 10<sup>th</sup> Street, Main to Windom Street, project, that was submitted by Eisenbraun & Associates for the sum of not to exceed \$17,160. Eisenbraun also submitted a separate proposal for construction services in the amount of \$53,780. This was reduced from \$82,000. Staff recommendation is that Council only approve the design portion of the project at this time. Staff will solicit bids for the construction services portion of the project.

Councilmember Sturm introduced Resolution No. 2012-62 and moved for approval of the design portion only; Councilmember Ley seconded.

RESOLUTION NO. 2012-62

A RESOLUTION APPROVING AGREEMENT FOR SERVICES BETWEEN THE CITY OF WAYNE AND EISENBRAUN & ASSOCIATES FOR THE 10<sup>TH</sup> 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 Yeas, the Mayor declared the motion carried.

Further discussion took place on the Code of Decorum ordinance. A draft with the changes made from the last meeting was reviewed by Council

Councilmember Ley shared concerns regarding the absentee portion of the ordinance, more specifically the language that states a vacancy will exist on the City Council if a Councilmember is absent more than 30% of the regular meetings.

Attorney Miller recommended leaving that portion of the ordinance which mirrors state statute in the ordinance.

Councilmember Sturm stated he liked the requirement of having to attend at least 70% of the meetings from the standpoint that the Council is elected by our constituents, and they expect us to be at the meetings. If the Council doesn't like that requirement, then consideration should be given to bringing back the discussion of getting paid on a per meeting basis.

Councilmember Frevert didn't think it was a thing about pay. It's more about attendance and being in the know of what's going on.

Mayor Chamberlain stated he has been asked by members of the public if he can do anything to compel or require Councilmembers to be in attendance at the meetings. He advises them that as long as the Councilmembers don't miss more than 5 in a row, he can't do anything about.

Councilmember Ley made a motion, and Councilmember Alexander seconded to table action on Ordinance 2012-28 Code of Decorum until the next meeting. 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.

Councilmember Brodersen introduced Ordinance 2012-35, and moved for approval of the second reading 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.

Councilmember Brodersen made a motion and Councilmember Ley seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley made a motion and Councilmember Brodersen seconded to move for final approval of Ordinance No. 2012-35. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Ken Jorgensen, owner of The Max, was present requesting Council consideration to extending the hours of sale of alcoholic liquor to 2:00 a.m. on the following dates:

- Thursday, September 27<sup>th</sup>, Friday, September 28<sup>th</sup>, and Saturday, September 29<sup>th</sup> – Wayne State College Homecoming Activities
- Saturday, October 27<sup>th</sup> – Saturday before Halloween
- Thursday, November 1<sup>st</sup> – Thursday after Halloween
- Thursday, December 13<sup>th</sup> and Friday, December 14<sup>th</sup> – Wayne State College Graduation
- Monday, December 31<sup>st</sup> – New Year's Eve

Councilmember Frevert introduced Ordinance No. 2012-36 and moved for approval thereof; Councilmember Haase seconded.

ORDINANCE NO. 2012-36

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE STATE COLLEGE HOMECOMING ACTIVITIES (September 27<sup>th</sup>, 28<sup>th</sup>, and 29<sup>th</sup>).

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

Councilmember Sturm introduced Ordinance No. 2012-37 and moved for approval thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2012-37

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR IN CONJUNCTION WITH A HALLOWEEN PARTY (OCTOBER 27<sup>TH</sup>).

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Haase seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Haase seconded to move for final approval of Ordinance No. 2012-37. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember

Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Mr. Jorgensen requested that Ordinance No. 2012-38 be pulled from the agenda. The Ordinance died for lack of a motion.

Councilmember Brodersen introduced Ordinance No. 2012-39 and moved for approval thereof; Councilmember Alexander seconded.

#### ORDINANCE NO. 2012-39

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR IN CONJUNCTION WITH WAYNE STATE COLLEGE GRADUATION (DECEMBER 13<sup>TH</sup> AND 14<sup>TH</sup>).

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Frevert seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Frevert seconded to move for final approval of Ordinance No. 2012-39. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Frevert introduced Ordinance No. 2012-40 and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2012-40

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC FOR NEW YEAR'S EVE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Frevert seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Councilmember Sturm made a motion and Councilmember Frevert seconded to move for final approval of Ordinance No. 2012-40. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Ley who voted Nay and Councilmember Berry who abstained, the Mayor declared the motion carried.

Discussions took place in regard to amending the municipal code to allow Councilmembers who get employed by the City to complete or finish their current term in office with the approval of a majority of Council. A councilmember has accepted a position with the City whose term expires in December. This change would give the Council the ability to say whether or not the Councilmember can or cannot finish a term on a case-by-case basis. The reason for this is that there is the potential for an elected

official to get employed right after an election. It's not a State Statute that you can't do both. Mayor Chamberlain was not comfortable with it being long-term. He would ask this particular Councilmember to stay on through the end of the year.

Council consensus was to have staff prepare an ordinance amending the Wayne Municipal Code for Council consideration at the next meeting.

Councilmember Alexander 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 7:15 p.m.